

AGENDA

REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA,
TO BE HELD NOVEMBER 15, 2016, AT 6:00 PM., AT THE COUNCIL CHAMBERS BUILDING,
826 NORTH MAIN STREET, COTTONWOOD, ARIZONA.

- I. CALL TO ORDER
- II. ROLL CALL
- III. PLEDGE OF ALLEGIANCE
- IV. BRIEF SUMMARY OF CURRENT EVENTS BY MAYOR, CITY COUNCIL AND/OR CITY MANAGER -- THE PUBLIC BODY DOES NOT PROPOSE, DISCUSS, DELIBERATE OR TAKE LEGAL ACTION ON ANY MATTER BROUGHT UP DURING THIS SUMMARY UNLESS THE SPECIFIC MATTER IS PROPERLY NOTICED FOR LEGAL ACTION.
- V. INTRODUCTION OF NEW EMPLOYEES
ELAINA AVILA, COMMUNICATION SPECIALISTS.
- VI. PROCLAMATIONS
PROCLAIMING NOVEMBER 2016 AS "AMERICAN DIABETES MONTH."
- VII. PRESENTATIONS
WOMEN OF THE YEAR 2016 CHARITIES--RE-PRESENTATION OF CHECKS TO THE VERDE VALLEY SANCTUARY & 100 CLUB OF ARIZONA.
- VIII. CALL TO THE PUBLIC--This portion of the agenda is set aside for the public to address the Council regarding an item that is not listed on the agenda for discussion. However, the Council cannot engage in discussion regarding any item that is not officially listed on the agenda for discussion and/or action (A.R.S. §38-431.02(H).) Comments are limited to a 5 minute time period.
- IX. APPROVAL OF MINUTES
SPECIAL MEETING OF OCTOBER 27, 2016, & REGULAR MEETING OF NOVEMBER 1, 2016.
Comments regarding items listed on the agenda are limited to a 5 minute time period per speaker.
- X. UNFINISHED BUSINESS
 1. ORDINANCE NUMBER 622--AMENDING THE ZONING MAP OF THE CITY OF COTTONWOOD, ARIZONA, FOR FIVE PARCELS OF LAND TOTALING APPROXIMATELY 100.83 ACRES, LOCATED EAST OF THE INTERSECTION OF GROSETA RANCH ROAD AND STATE ROUTE 89A, APN 406-32-080P; 406-23-036V, 406-32-036W, 406-32-174B, AND 406-32-174C, SO AS TO CHANGE CERTAIN DISTRICT

BOUNDARIES AND CLASSIFICATIONS THEREOF FROM THE PRESENT ZONING OF PAD (PLANNED AREA DEVELOPMENT) AS APPROVED PER ORDINANCE NUMBER 408 ON NOVEMBER 20, 2001, TO AN ALTERNATIVE PAD ZONE; SECOND & FINAL READING.

XI. NEW BUSINESS—The following items are for Council discussion, consideration, and possible legal action.

1. COOPERATIVE USE OF THE CITY OF CHANDLER'S CONTRACT THROUGH THE SAVE PURCHASING COOPERATIVE WITH HENNESY MECHANICAL, INC., FOR THE PURCHASE OF WASTEWATER PUMPS, EQUIPMENT AND REPAIR SERVICES FOR THE CITY'S WASTEWATER SYSTEM.
2. RESOLUTION NUMBER 2857 - APPROVING AN AGREEMENT WITH SIGNATURE PUBLIC FUNDING CORP., FOR LEASE PURCHASE FINANCING FOR PUBLIC SAFETY VEHICLES AND EQUIPMENT; A STREET SWEEPER; AND PHYSICAL FITNESS EQUIPMENT FOR THE RECREATION CENTER

XII. CLAIMS AND ADJUSTMENTS

XIII. ADJOURNMENT

Pursuant to A.R.S. 38-431.03.(A) the Council may vote to go into executive session on any agenda item pursuant to A.R.S. 38-431.03.(A)(3) Discussion or consultation for legal advice with the attorney or attorneys of the public body.

The Cottonwood Council Chambers is accessible to the disabled in accordance with Federal "504" and "ADA" laws. Those with needs for special typeface print or hearing devices may request these from the City Clerk (TDD 634-5526.) All requests must be made 24 hours prior to the meeting.

Members of the City Council will attend either in person or by telephone conference call.

Notice is hereby given that pursuant to A.R.S. 1-602.A.9 , subject to certain specified statutory exceptions, parents have a right to consent before the State or any of its political subdivisions make a video or audio recording of a minor child. Meetings of the City Council are audio and/or video recorded, and, as a result, proceedings in which children are present may be subject to such recording. Parents in order to exercise their rights may either file written consent with the City Clerk to such recording, or take personal action to ensure that their child or children are not present when a recording may be made. If a child is present at the time a recording is made, the City will assume that the rights afforded parents pursuant to A.R.S. 1-602.A.9 have been waived.



PROCLAMATION

American Diabetes Month

WHEREAS, in the United States, nearly 30 million people—including 1 in 9 in Arizona—have diabetes, a serious disease with potentially life-threatening complications such as heart disease, stroke, blindness, kidney disease and amputation; and

WHEREAS, an additional 86 million people in the United States are at risk for developing type 2 diabetes; and

WHEREAS, approximately every 23 seconds someone in the United States is diagnosed with diabetes; and

WHEREAS, an increase in community awareness is necessary to put a stop to the diabetes epidemic.

NOW, THEREFORE, I, Diane Joens, Mayor of Cottonwood, Arizona, do hereby proclaim November 2016 to be American Diabetes Month in Cottonwood, Arizona, and encourage all Americans to recognize American Diabetes Month and be part of the American Diabetes Association's Stop Diabetes movement to confront, fight and most importantly, change the future of this deadly disease.

Dated this 15th day of November 2016.

Diane Joens, Mayor

City of Cottonwood, Arizona
City Council Agenda Communication



 [Print](#)

Meeting Date:	November 15, 2016
Subject:	First annual "Women of the Year Awards."
Department:	City Clerk
From:	Diane Joens, Mayor

REQUESTED ACTION

None.

SUGGESTED MOTION

If the Council desires to approve this item the suggested motion is: N/A

BACKGROUND

The first annual Women of the Year Awards event was hosted by Mayor Diane Joens on July 31, 2016.

Twenty accomplished Sedona-Verde Valley women were recognized at the event by Mayor Joens. These awards honored and recognized women who have made a difference as leaders, mentors and advocates. To see the list of women who received awards, go to: www.joenswomenoftheyear.com.

Mayor Joens also presented one of the 20 award recipients (Terrie Frankel) with the 2016 CC Porter Award of Compassion during the luncheon.

2016 Women of the Year Awards Charities--Mayor Joens selected two charities to receive an equal percentage of the proceeds of the Women of the Year Awards event: The Verde Valley Sanctuary, who offers a safe haven for victims of family violence and sexual assault, providing shelter, community outreach, legal advocacy and education and prevention; and the 100 Club of Arizona, who provides immediate financial assistance to families of public safety officers, firefighters and HotShots who are seriously injured or killed in the line of duty, and to provide resources to enhance their safety and welfare.

JUSTIFICATION/BENEFITS/ISSUES

COST/FUNDING SOURCE

ATTACHMENTS:		
Name:	Description:	Type:
No Attachments Available		

MINUTES OF THE SPECIAL MEETING OF THE CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, HELD ON OCTOBER 27, 2016, AT 4:00 P.M., AT THE CITY COUNCIL CHAMBERS BUILDING, 826 NORTH MAIN STREET, COTTONWOOD, ARIZONA.

COUNCIL MEMBERS PRESENT

Diane Joens, Mayor
Karen Pfeifer, Vice Mayor
Kyla Allen, Council Member
Ruben Jauregui, Council Member
Linda Norman, Council Member
Terence Pratt, Council Member

STAFF MEMBERS PRESENT

Doug Bartosh, City Manager
Marianne Jimenez, City Clerk
Steve Horton, City Attorney
Tom Whitmer, Natural Resources Director

OTHERS PRESENT

David Brown, Esq.
Herb Dishlip
Doug Bartlett
Paul Plato
Deb Allen, Council Member Elect

DISCUSSION OF ISSUES RELATED TO PENDING AND POTENTIAL LITIGATION ASSOCIATED WITH THE GILA RIVER ADJUDICATION AND OTHER LEGAL ISSUES REGARDING THE CITY'S WATER SUPPLY

Upon a public majority vote of the members constituting a quorum, the Council may hold an executive session with regard to item III which is not open to the public for the following purposes: A.R.S. § 38-431.03(A)(3)–*Discussion or consultation for legal advice with the attorney or attorney's of the public body; A.R.S. § 38-431.03(A)(4)–Discussion or consultation with the attorney of the public body in order to consider its position and instruct its attorney regarding the public body's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation; A.R.S. § 38431.03(A)(7)–Discussions or consultations with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property.*

Mayor Joens moved to convene into executive session. The motion was seconded by Council Member Pratt, and carried.

Mayor Joens stated she had invited council members elect Tosca Henry and Deb Allen to attend if that was okay with the Council. The rest of the council members indicated it was okay.

After discussion under executive session, Mayor Joens moved to reconvene into special session. The motion was seconded by Council Member Allen, and carried.

There was no discussion nor any action taken under special session.

ADJOURNMENT

Council Member Pratt moved to adjourn. The motion was seconded by Vice Mayor Pfeifer, and carried. The special meeting adjourned at 5:23 p.m.

MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, HELD NOVEMBER 1, 2016, AT 6:00 P.M., AT THE CITY COUNCIL CHAMBERS BUILDING, 826 NORTH MAIN STREET, COTTONWOOD, ARIZONA.

Mayor Joens called the meeting to order at 6:00 p.m. Roll call was taken as follows:

COUNCIL MEMBERS PRESENT

Diane Joens, Mayor
Karen Pfeifer, Vice Mayor
Terence Pratt, Council Member
Kyla Allen, Council Member
Linda Norman, Council Member
Ruben Jauregui, Council Member

STAFF MEMBERS PRESENT

Doug Bartosh, City Manager
Marianne Jimenez, City Clerk
Steve Horton, City Attorney
Hezekiah Allen, Recreation Services Supervisor
Richard Faust, Community Services General Manager

PLEDGE OF ALLEGIANCE

Mayor Joens led the Pledge of Allegiance.

SUMMARY OF CURRENT EVENTS

Mr. Bartosh stated Walkin' on Main was coming up on November 12 in Old Town.

Council Member Pratt reminded everyone that registration was currently ongoing at Yavapai College for the spring semester.

Mayor Joens stated she attended a going away event for Officer Matt Watson who was going on a fourth tour of duty.

AWARDS

EYES (EMPLOYEES YIELDING EFFECTIVE SAFETY) QUARTERLY AWARD--A.J. PURINTON, FIRE FIGHTER

Chief Kuykendall introduced A.J. Purinton, Firefighter, and reviewed why he was nominated to receive the EYES award.

CERTIFICATE OF APPRECIATION FROM THE NORTHERN ARIZONA COUNCIL OF GOVERNMENTS (NACOG) TO DIANE JOENS FOR DEDICATED SERVICE

The Vice Mayor and Council re-presented Mayor Joens the certificate of appreciation that was given to her by the Northern Arizona Council of Governments for her dedicated service.

CALL TO THE PUBLIC

There were no comments from the public.

APPROVAL OF MINUTES OF SPECIAL MEETING OF OCTOBER 18, 2016, AND REGULAR MEETING OF OCTOBER 18, 2016.

Mayor Joens stated she would like them to consider approving the special meeting of October 18, but the regular meeting needs a little bit more work, so she was going to table that one.

Council Member Norman moved to approve the special meeting of October 18, 2016. The motion was seconded by Vice Mayor Pfeifer, and carried.

NEW BUSINESS

REQUEST TO WAIVE SECTION 9.12.030, ALCOHOLIC BEVERAGES, OF THE MUNICIPAL CODE, TO ALLOW THE SALE AND CONSUMPTION OF BEER DURING THE DISCING 4KIDS EVENT SCHEDULED FOR NOVEMBER 5, 2016, AT RIVERFRONT PARK

Ryan Bigelow, Recreation Supervisor, stated item number one was in regards to the fifth annual Cottonwood fall classic disc golf tournament being held this Saturday. They already had 108 players registered, so the tournament was completely sold out. This was the second year working with Discing 4Kids, a 501c3 organization. Last year this event raised \$1,000 for the Verde Valley Military Service Park. The goal was to do the same this year. Part of the fundraising that enables us to do that is selling beer products. He introduced Eddie Diaz from Discing 4Kids based in Flagstaff.

Mr. Diaz stated he ran the Discing 4Kids program. He was based in Flagstaff and covered Northern Arizona. Last year we were fortunate to be part of the Cottonwood Fall Classic. We had 90 participants last year, this year we had 108 already registered. As far as the fundraising goes, what we do is put discs in over 2,500 kids' hands. He was involved with Flagstaff Unified School District and went to every elementary school. This is a great way to do fundraising for us. This is an adult event; that is why we are asking for the liquor license. Only two underage people registered for the event. He indicated next year he wanted to do a two-day event to fill the hotels.

Council Member Pratt stated it was a great event and it supports the Military Service Park, and kids, and showcases Cottonwood. It's going to have a positive effect on our economy as well.

Council Member Pratt then moved to approve a waiver of Municipal Code 9.12.030 for the sale and consumption of alcohol at Riverfront Park on Saturday, November 5 for the Discing 4Kids fundraising program. The motion was seconded by Council Member Allen, and carried.

SPECIAL EVENT LIQUOR LICENSE APPLICATION SUBMITTED BY EDDIE M. DIAZ, APPLICANT FOR DISCING 4KIDS, INC., FOR AN EVENT SCHEDULED FOR NOVEMBER 5, 2016, AT RIVERFRONT PARK

Ms. Jiménez stated this was the standard special event liquor license application that Mr. Diaz submitted for the event to be held on November 5.

Council Member Jauregui moved to recommend approval of the Special Event Liquor License application submitted by Eddie M. Diaz, applicant for Discing 4Kids, Inc., for an event scheduled for November 5, 2016, at Riverfront Park. The motion was seconded by Vice Mayor Pfeifer, and carried.

ORDINANCE NUMBER 622--AMENDING THE ZONING MAP OF THE CITY OF COTTONWOOD, ARIZONA, FOR FIVE PARCELS OF LAND TOTALING APPROXIMATELY 100.83 ACRES, LOCATED EAST OF THE INTERSECTION OF GROSETA RANCH ROAD AND STATE ROUTE 89A, APN 406-32-080P; 406-23-036V, 406-32-036W, 406-32-174B, AND 406-32-174C, SO AS TO CHANGE CERTAIN DISTRICT BOUNDARIES AND CLASSIFICATIONS THEREOF FROM THE PRESENT ZONING OF PAD (PLANNED AREA DEVELOPMENT) AS APPROVED PER ORDINANCE NUMBER 408 ON NOVEMBER 20, 2001, TO AN ALTERNATIVE PAD ZONE; FIRST READING

The developers of the project, Michael Foster, Clark Pettit, Swayze McCraine, and K.J. Kasun, introduced themselves.

Mr. Scully stated this was the first reading of Ordinance Number 622, which changes the zoning for the PAD for the Vineyards at Cottonwood project, a 555 unit master planned community located east of SR 89A and the intersection of the roundabout of Groseta Ranch Road on property a little over 100 acres in size. The applicants held a neighborhood meeting in May at the On the Greens club house, attended by approximately 50 people. They had comments and discussion that was a part of the process required for a rezoning. The Planning & Zoning Commission held a public hearing at their meeting in July and discussed the project in detail. There were no comments from the public at that meeting. The council considered this at a work session in September and we went through the presentation in greater detail than this streamlined presentation now. This would be the first reading and will be followed up at the next meeting for the second and final reading to adopt the zone change.

Mr. Horton added the council may adopt the ordinance in two weeks without having its own public hearing, unless either the applicant, or a member of the public, or a member of the council requests that there be a public hearing. Right now staff is planning on scheduling it without a public hearing.

Mr. Scully stated the property has five parcels in the rezone, which he showed on the screen. He then reviewed the history of the zoning for the original Groseta Ranch master plan zoned PAD that was a 144 acre project that had 65 acres of commercial along the highway with multi-unit residential, and a shopping center on the corner. That part was not included in this project. This project would be completed in nine phases over a 100 acre section that has 68 acres of multi-family residential, single-family, and condos, with a small amount of commercial and a club house in the center. It included 30 acres of open space; mainly the natural drainage areas. It was a different configuration and needs a new zoning that goes from PAD to a PAD to update the original PAD that was 15 years old. The master plan for the site has nine proposed phases with the first phase containing 41 houses, and as the market responds the build out could take up to 10 years or sooner if they sell houses quicker. The first phase was immediately to the left as you come in from the highway and Groseta Ranch Road. As part of the PAD zoning, projects have a master development plan that gets approved as part of the ordinance which lays out the framework for what's being proposed. He then showed slides of the craftsman style of buildings that would be in the project. One of the issues that came up was because the housing was along the state highway and at a slightly lower elevation than the road, if we had them build a solid wall it would have to be quite tall to block out noise or visibility and would not work as well. Instead, there is a hedge that grows fairly tall, a photinia hedge that potentially grows as high as 10 feet and forms a solid hedge that will be planted in places between the highway and the houses. In addition to doing the rezoning, the next phase of the process is to do the subdivision planning process starting with the preliminary plat going to the Planning & Zoning Commission. That was a point at which details will get worked out if it seems there are things that are missing in each phase. Those will be public hearings and also for Design Review if you're dealing with multi-unit residential or commercial or any other kind of public amenities.

Council Member Pratt stated we did have a fairly detailed presentation of this in September, and he believed the council was unanimous in saying let's go forward with this. He thought it was a great thing for the community and shows how good the city is at working with the developers and the collaboration between the developer and the city.

Mr. Horton stated there is not anything close to a complete absence of detail. You'll note in your packets there's 37 separate stipulations attached to the rezoning. There will be additional stipulations and a development agreement and other things.

Mayor Joens asked if there were any other questions or comments from council members.

Vice Mayor Pfeifer stated she liked it.

Mayor Joens stated it goes with the city's branding.

Council Member Allen stated it was a good project.

Mayor Joens opened the floor to the public. There were no comments from the public and the Mayor closed the floor to the public.

Mr. Horton stated perhaps we want to see if the applicant wants to comment.

Mr. Pettit stated we appreciate the positive comments and feel it will be a good project.

The City Clerk read the first reading of the ordinance by title only:

ORDINANCE NUMBER 622

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, AMENDING THE ZONING MAP OF THE CITY OF COTTONWOOD, ARIZONA, FOR FIVE PARCELS OF LAND TOTALING APPROXIMATELY 100.83 ACRES, LOCATED EAST OF THE INTERSECTION OF GROSETA RANCH ROAD AND STATE ROUTE 89A, APN 406-32-080P; 406-23-036V, 406-32-036W, 406-32-174B, AND 406-32-174C, SO AS TO CHANGE CERTAIN DISTRICT BOUNDARIES AND CLASSIFICATIONS THEREOF FROM THE PRESENT ZONING OF PAD (PLANNED AREA DEVELOPMENT) AS APPROVED PER ORDINANCE NUMBER 408, ON NOVEMBER 20, 2001, TO PAD (PLANNED AREA DEVELOPMENT) ZONE.

AWARD OF CONTRACT AND APPROVAL OF A PROFESSIONAL SERVICES AGREEMENT WITH SOUTHWESTERN ENVIRONMENTAL CONSULTANTS, INC., TO DESIGN THE MINGUS AVENUE IMPROVEMENT PROJECT, FROM 8TH STREET TO MAIN STREET

Mr. Scott reviewed the proposed improvements that were part of the Mingus Avenue improvement project between 89A and Main Street. He then reviewed the sections of the project that had been completed to date. For this section, (8th Street to Main Street) Statements of Qualifications were solicited and the submittals were scored, and Southwestern Environmental Consultants were selected. This contract was for design services for the portion of the project from 8th Street to Main Street in the amount of \$190,508. The cost for the base design was \$125,904, with two options. Option one was for offsite drainage mitigation between Main Street and 10th Street for \$48,278, and option two was for a traffic analysis of the intersection of Mingus and Main for \$15,876. Staff recommend both options be added to the design work.

Mr. Horton clarified the amount Mr. Scott was talking about was a not to exceed amount.

Council Member Allen moved to award the contract for the Mingus Avenue Design from 8th Street to Main Street, to Southwestern Environmental Consultants, Inc. The motion was seconded by Council Member Pratt, and carried.

CLAIMS/ADJUSTMENTS

Vice Mayor Pfeifer moved to pay the claims. The motion was seconded by Council Member Norman, and carried.

ADJOURNMENT

Mayor Joens moved to adjourn. The motion was seconded by Vice Mayor Pfeifer, and carried. The regular meeting adjourned at 6:48 p.m.

City of Cottonwood, Arizona
City Council Agenda Communication



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Meeting Date:	November 15, 2016
Subject:	Ordinance Number 622--PAD Rezoning for The Vineyards at Cottonwood development.
Department:	City Clerk
From:	Charlie Scully, Planner

REQUESTED ACTION

Consideration of Second Reading of Ordinance Number 622 -- PAD rezoning for the Vineyards at Cottonwood development for 5 parcels of land totaling approximately 100.83 Acres, located east of the intersection of Groseta Ranch Road and State Route 89A (APN 406-32-080P; 406-23-036V, -036W, -174B, -174C.)

SUGGESTED MOTION

If the Council desires to approve this item the suggested motion is:

I move to approve Ordinance 622, rezoning 100.83 acres to PAD Zone for the Vineyards at Cottonwood development.

BACKGROUND

The City Council considered the proposed 555-unit residential planned development at their September 13, 2016 work session and considered the First Reading of Ordinance 622 at their November 1, 2016 meeting.

The Planning and Zoning Commission considered the proposed PAD rezoning at their July 18, 2016 meeting and recommended approval (5-0) subject to 23 conditions. Additional technical conditions have been added for Public Works, Utilities and Fire Department requirements.

A neighborhood meeting conducted by the applicants and attending by over 50 people was held at the nearby On the Greens clubhouse on May 25, 2016, at which no major concerns were raised. A full media release notice for the neighborhood meeting was sent out in advance of the meeting. A 32-square foot public hearing notice sign was installed on the property facing SR 89A. Notification letters were sent to all property owners within 300 feet of the project boundary, as required. One letter of concern was received by a nearby property owner from the Verde Heights subdivision on N. Ocotillo Street. Concerns included potential trespassing on their property, littering, noise and crime associated with residents of the new development.

Property History: In 2001, the property was rezoned PUD (Planned Unit Development) through Ordinance 408 for the “Groseta Ranch Master Plan.” All approved PUD's were subsequently renamed city-wide to

PAD's (Planned Area Developments.) The 2001 PUD zoning approved 144 acres, including almost 65 acres of commercial, retail and business park uses along the state highway corridor, as well as over 35 acres designated multi-unit residential. A low calculation of 16 units per acre for multi-unit residential would have provided 560 apartment units. However, no development activity took place subsequent to that rezoning approval.

Project Summary: The proposed Vineyards at Cottonwood project includes approximately 100.83 acres with 65 acres of mixed residential development, 3 acres of community center/commercial, and 30 acres indicated as open space.

Master Development Plan: Planned Area Development (PAD), Section 424 of the Zoning Ordinance, requires submittal of a Master Development Plan (MDP) in a format described in the ordinance. The MDP is intended to layout the overall proposal and include any proposed unique features. The MDP is approved through the zoning ordinance and serves as the guide for development of the project.

Design Review Procedures: PAD Zoning generally requires preliminary design guidelines (*previously referred to as development review*) to be included as part of the Master Development Plan. Design Review includes building architecture, site layout, landscaping, project signage, lighting standards, site features, open space details and similar details. The Zoning Ordinance allows the design review requirements to be approved through the MDP or specific features or areas may be reviewed and approved at a later time with the future phases. The proposed "Craftsman Style" design theme for the residential buildings is well documented in the MDP and is proposed for the entire project. Design review issues not included with the MDP would require subsequent review and approval by the Planning and Zoning Commission. In this case, right-of-way and common area landscaping, open space details, project amenities, trail facilities and similar items will need to be submitted and approved by the Commission for each phase of development prior to or concurrent with the Preliminary Plat application.

Attachments:

Proposed Ordinance 622 – establishing new PAD Zone designation.

Master Development Plan for The Vineyards at Cottonwood (*Binder Copy submitted for September 2016 Council work session.*)

Code Review Board (Planning) Comments; Fire Department Comments: and Engineering Comments. (Exhibits A, B & C)

JUSTIFICATION/BENEFITS/ISSUES

The Vineyards at Cottonwood proposal provides a mix of housing types to respond to the diverse needs of the community, preservation of natural drainage washes and open space, and pedestrian and vehicle connections to surrounding areas.

Approval of Ordinance 622 approves the Master Development Plan for The Vineyards at Cottonwood and is subject to 37 stipulations included in the ordinance.

COST/FUNDING SOURCE

N/A

ATTACHMENTS:		
Name:	Description:	Type:
Ord622.doc	Ordinance Number 622	Cover Memo
Stipulations Exhibits A B C.pdf	Stipulations Exhibits A. B & C	Cover Memo



Master_Site_Plan_Revised_August_2016.pdf	Master Site Plan	Cover Memo
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ORDINANCE NUMBER 622

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, AMENDING THE ZONING MAP OF THE CITY OF COTTONWOOD, ARIZONA, FOR FIVE PARCELS OF LAND TOTALING APPROXIMATELY 100.83 ACRES, LOCATED EAST OF THE INTERSECTION OF GROSETA RANCH ROAD AND STATE ROUTE 89A, APN 406-32-080P; 406-23-036V, 406-32-036W, 406-32-174B, AND 406-32-174C, SO AS TO CHANGE CERTAIN DISTRICT BOUNDARIES AND CLASSIFICATIONS THEREOF FROM THE PRESENT ZONING OF PAD (PLANNED AREA DEVELOPMENT) AS APPROVED PER ORDINANCE NUMBER 408, ON NOVEMBER 20, 2001, TO PAD (PLANNED AREA DEVELOPMENT) ZONE.

WHEREAS, the Planning & Zoning Commission considered the proposed PAD rezoning at their July 18, 2016, meeting and recommended approval subject to 23 conditions; and

WHEREAS, additional technical conditions were added by staff for Public Works, Utilities, and Fire Department requirements; and

WHEREAS, the City Council considered the 555 unit residential Planned Area Development at a work session held on September 13, 2016; and

WHEREAS, the requirements of A.R.S. § 9-462.04 have been met.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, AS FOLLOWS:

Section 1: That the following described parcels of land APN 406-32-080P; 406-23-036V, 406-32-036W, 406-32-174B, AND 406-32-174C, lying within the City of Cottonwood, Yavapai County, Arizona, shall be and are hereby reclassified from PAD to PAD, subject to the applicant's compliance with the conditions and stipulations set forth below under Section 2.

Legal Description

Parcel Number 1:

That portion of Sections 28 and 33, Township 16 North, Range 3 East, Gila and Salt River Meridian, Yavapai County, Arizona, being portions of those certain parcels described in Book 3984 of Official Records at Page 64 and Book 3984 of Official Records at Page 67, records of Yavapai County, more particularly described as follows:

Ordinance Number 622

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COMMENCING at the south quarter corner of said Section 28 marked with a found ½ inch rebar with set tag "LS 48100" (from which the southwest corner of said Section 28, marked with a found, bent, rebar with aluminum cap "RLS 40622", bears North 88°51'34" West, along the Basis of Bearing, a distance of 2648.46 feet);

Thence North 88°51'35" West, along the south line of the southwest quarter of said Section 28 a distance of 1645.61 feet to a point;

Thence South 05°37'52" East a distance of 407.23 feet to a point; Thence South 57°33'17" West a distance of 204.00 feet to a point;

Thence North 86°33'06" West a distance of 335.72 feet to a point on the easterly right-of-way of the PRESCOTT-FLAGSTAFF HIGHWAY per Drawing Number D-13-T-464 on file with the Arizona Department of Transportation and the Warranty Deed re-recorded in Book 4768 of Official Records at Page 553, records of Yavapai County marked with a found aluminum cap "ADOT ROW 2009 RLS 40622";

Thence North 51°07'57" West, along said easterly right-of-way, a distance of 230.49 feet to a found aluminum cap "ADOT ROW 2009 RLS 40622", the TRUE POINT OF BEGINNING;

Thence North 40°41'19" West, along said easterly right-of-way, a distance of 449.08 feet to a found aluminum cap "ADOT ROW 2009 RLS 40622";

Thence North 01°41' 55" East, along said easterly right-of-way, a distance of 28.05 feet to a point on said south line of the southwest quarter of said Section 28 marked with a found aluminum cap "ADOT ROW 2009 RLS 40622";

Thence North 01°47'45" East, along said easterly right-of-way, a distance of 31.34 feet to a found aluminum cap "ADOT ROW 2009 RLS 40622";

Thence North 56°54'34" East, along said easterly right-of-way, a distance of 259.24 feet to a found aluminum cap "ADOT ROW 2009 RLS 40622";

Thence North 25°08'18" West, along said easterly right-of-way, a distance of 13.31 feet to a found aluminum cap "ADOT ROW 2009 RLS 40622";

Thence North 24°52'54" West, along said easterly right-of-way, a distance of 25.00 feet to a point on the southerly line of that certain exception described as PARCEL 1 in said Book 3984 at Page 67 marked with a set 1/2 inch rebar with plastic cap "LS 48100" in pavement;

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Thence North 64°15'46" East, along said southerly line of exception, a distance of 90.24 feet to a found spindle with washer "LS 13015" in pavement;

Thence North 63°56'12" East, along said southerly line of exception, a distance of 28.82 feet to a point on the southerly line of that certain right-of-way granted to the City of Cottonwood and described on EXHIBIT B in Book 4217 of Official Records at Page 577 marked with a set 1/2 inch rebar with plastic cap "LS 48100" in pavement;

Thence North 73°50'09" East, along said southerly line of right-of-way, a distance of 252.98 feet to a point marked with a set 1/2 inch rebar with plastic cap "LS 48100";

Thence easterly, along said southerly line of right-of-way, along a curve to the right having a radius of 360.00 feet, a central angle of 17°50'56", a chord of North 82°45'37" East, 111.70 feet, for an arc length of 112.15 feet to a point marked with a set 1/2 inch rebar with plastic cap "LS 48100";

Thence South 88°18'55" East, along said southerly line of right-of-way, a distance of 10.84 feet to a point;

Thence South 00°41'18" East a distance of 145.53 feet to a point; Thence South 01°08'25" West a distance of 249.50 feet to a point;

Thence South 50°02'37" West a distance of 493.65 feet to the TRUE POINT OF BEGINNING.

Parcel Number 2:

That portion of Sections 28 and 33, Township 16 North, Range 3 East, Gila and Salt River Meridian, Yavapai County, Arizona, being portions of those certain parcels described in Book 3984 of Official Records at Page 64 and Book 3984 of Official Records at Page 67, records of Yavapai County, more particularly described as follows:

BEGINNING at the south quarter corner of said Section 28 marked with a found 1/2 inch rebar with set tag "LS 48100" (from which the southwest corner of said Section 28, marked with a found, bent, rebar with aluminum cap "RLS 40622", bears North 88°51'34" West, along the Basis of Bearing, a distance of 2648.46 feet);

Thence North 88°51'35" West, along the south line of the southwest quarter of said Section 28 a distance of 1645.61 feet to a point;

Thence South 05°37'52" East a distance of 407.23 feet to a point; Thence South 57°33'17" West a distance of 204.00 feet to a point;

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Thence North $86^{\circ}33'06''$ West a distance of 335.72 feet to a point on the easterly right-of-way of the PRESCOTT-FLAGSTAFF HIGHWAY per Drawing Number D-13-T-464 on file with the Arizona Department of Transportation and the Warranty Deed re-recorded in Book 4768 of Official records at Page 553, records of Yavapai County marked with a found aluminum cap "ADOT ROW 2009 RL 40622";

Thence North $51^{\circ}07'57''$ West, along said easterly right-of-way, a distance of 230.49 feet to a found aluminum cap "ADOT ROW 2009 RLS 40622";

Thence North $50^{\circ}02'37''$ East a distance of 493.95 feet to a point; Thence North $01^{\circ}08'25''$ East a distance of 249.50 feet to a point;

Thence North $00^{\circ}41'18''$ West a distance of 145.53 feet to a point on the southerly line of that certain right-of-way granted to the City of Cottonwood and described on EXHIBIT B in Book 4217 of Official Records at Page 577;

Thence South $88^{\circ}18'55''$ East, along said southerly line of right-of-way, a distance of 844.00 feet to a point marked with a set 1/2 Inch rebar with plastic cap "LS 48100";

Thence northeasterly, along said southerly line of right-of-way, along a curve to the left having a radius of 440.00 feet, a central angle of $34^{\circ}07'26''$, a chord of North $74^{\circ}37'22''$ East, 258.20 feet, for an arc length of 262.05 feet to a point marked with a set 1/2 inch rebar with plastic cap "LS 48100";

Thence North $57^{\circ}33'39''$ East, along said southerly line of right-of-way, a distance of 686.9g feet to a point marked with a set 1/2 inch rebar with plastic cap "LS 48100";

Thence northeasterly, along said southerly line of right-of-way, along a curve to the left having a radius of 440.00 feet, a central angle of $04^{\circ}25'16''$, a chord of North $55^{\circ}21'01''$ East, 33.94 feet, for an arc length of 33.95 feet to a point marked with a set 1/2 inch rebar with plastic cap "LS 48100";

Thence North $53^{\circ}08'23''$ East, along said southerly line of right-of-way, a distance of 263.69 feet to a point on the locally accepted north-south mid-section line of said Section 28 marked with a set 1/2 inch rebar with plastic cap "LS 48100";

Thence South $00^{\circ}01'22''$ West, along said mid-section line, a distance of 834.67 feet to a found 1/2 inch rebar with tag "LS 32224";

Thence South $00^{\circ}17'19''$ West, along said mid-section line, a distance of 150.03 feet to the POINT OF BEGINNING.

Parcel Number 3:

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That portion of Section 29, Township 16 North, Range 3 East, Gila and Salt River Meridian, Yavapai County, Arizona, being a portion of that certain parcel described as PARCEL 2 in Book 3984 of Official Records at Page 66, records of Yavapai County, more particularly described as follows:

COMMENCING at the south quarter corner of Section 28, said Township and Range marked with a found 1/2 inch rebar with set tag "LS 48100";

Thence North 88°51'34" West along the south line of the southwest quarter of said Section 28 and the Basis of Bearing, a distance of 2648.46 feet to the southeast corner of said Section 29 marked with a found, bent, rebar with aluminum cap "RLS 40622";

Thence North 00°01'30" West a distance of 150.74 feet to a point on the easterly right-of-way of the PRESCOTT-FLAGSTAFF HIGHWAY per Drawing Number D-13-T-464 on file with the Arizona Department of Transportation and the Warranty Deed re-recorded in Book 4768 of official Records at Page 553, records of Yavapai County marked with a found aluminum cap "ADOT ROW 2009 RLS 40622";

Thence South 65°35'15" West, along said easterly right-of-way, a distance of 50.75 feet to a found aluminum cap "ADOT ROW 2009 RLS 40622";

Thence North 74°40'47" West, along said easterly right-of-way, a distance of 155.85 feet to a found aluminum cap "ADOT ROW 2009 RLS 40622";

Thence North 44°38'55" West, along said easterly right-of-way, a distance of 405.00 feet to a found aluminum cap "ADOT ROW 2009 RLS 40622";

Thence North 05°18'05" West, along said easterly right-of-way, a distance of 91.04 feet to a point on the southerly line of said PARCEL 2 marked with a set 1/2 inch rebar with plastic cap "LS 48100", the TRUE POINT OF BEGINNING;

Thence North 05°18'05" West, continuing along said easterly right-of-way, a distance of 86 feet to a found aluminum cap "ADOT ROW 2009 RLS 40622";

Thence North 61°45'06" West, along said easterly right-of-way, a distance of 220.77 feet to a found aluminum cap "ADOT ROW 2009 RLS 40622";

Thence North 44°39'12" West, along said easterly right-of-way, a distance of 431.99 feet to a found aluminum cap "ADOT ROW 2009 RLS 40622";

Thence North 07°00'05" East, along said easterly right-of-way, a distance of 48.39 feet to a found aluminum cap "ADOT ROW 2009 RLS 40622";

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Thence North 35°09'52" West, along said easterly right-of-way, a distance of 164.23 feet to a found aluminum cap "ADOT ROW 2009 RLS 40622";

Thence North 44°39'27" West, along said easterly right-of-way, a distance of 127.33 feet to a point on the north line of said PARCEL 2 marked with a set 1/2 inch rebar with plastic cap "LS48100";

Thence North 82°38'00" East, leaving said right-of-way, along said north line, a distance of 721.71 feet to the end of the westerly line of that certain right-of-way granted to the City of Cottonwood and described on EXHIBIT B in Book 4217 of Official Records at Page 577 marked with a set 1/2 inch rebar with plastic cap "LS 48100";

Thence South 44°41'05" East, along said westerly line of right-of-way, a distance of 628.44 feet to a point on the southerly line of said PARCEL 2 marked with a set 1/2 inch rebar with plastic cap "LS 48100";

Thence South 55°45'19" West, along said southerly line, a distance of 110.11 feet to a found 5/8 inch rebar with illegible plastic cap and set tag "LS 48100";

Thence South 51°42'35" West, along said southerly line, a distance of 259.86 feet to a found 5/8 inch rebar with set tag "LS 48100";

Thence South 61°30'43" West, along said southerly line, a distance of 192.34 feet to a found 5/8 inch rebar with plastic cap "LS 13015";

Thence south 32°52'33" West, along said southerly line, a distance of 30.33 feet to the TRUE POINT OF BEGINNING.

Parcel Number 4:

That portion of Sections 28 and 29, Township 16 North, Range 3 East, Gila and Salt River Meridian, Yavapai County, Arizona, being a portion of that certain parcel described as PARCEL 1 in Book 3984 of Official Records at Page 66, records of Yavapai County, more particularly described as follows:

COMMENCING at the south quarter corner of said Section 28 marked with a found 1/2 inch rebar with set tag "LS 48100";

Thence North 88°51'34" West along the south line of the southwest quarter of said Section 28 and the Basis of Bearing, a distance of 2648.46 feet to the southwest corner of said Section 28 marked with a found, bent, rebar with aluminum cap "RLS 40622";

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Thence North 00°01'30" West a distance of 150.74 feet to a point on the easterly right-of-way of the PRESCOTT-FLAGSTAFF HIGHWAY per Drawing Number D-13-T-464 on file with the Arizona Department of Transportation and the Warranty Deed re-recorded in Book 4768 of Official Records at Page 553, records of Yavapai County marked with a found aluminum cap "ADOT ROW 2009 RLS 40622", the TRUE POINT OF BEGINNING;

Thence South 65°35'15" West, along said easterly right-of-way, a distance of 50.75 feet to a found aluminum cap "ADOT ROW 2009 RLS 40622";

Thence North 74°40'47" West, along said easterly right-of-way, a distance of 155.85 feet to a found aluminum cap "ADOT ROW 2009 RLS 40622";

Thence North 44°38'55" West, along said easterly right-of-way, a distance of 405.00 feet to a found aluminum cap "ADOT ROW 2009 RLS 40622";

Thence North 05°18'05" West, along said easterly right-of-way, a distance of 91.04 feet to a point on the northerly line of said PARCEL 1 marked with a set 1/2 inch rebar with plastic cap "LS 48100";

Thence North 32°52'33" East, along said northerly line, a distance of 30.33 feet to a found 5/8 inch rebar with plastic cap "LS 13015";

Thence North 61°30'43" East, along said northerly line, a distance of 192.34 feet to a found 5/8 inch rebar with set tag "LS 48100";

Thence North 51°42'35" East, along said northerly line, a distance of 259.86 feet to a found 5/8 inch rebar with illegible plastic cap and set tag "LS 48100";

Thence North 55°45'19" East, along said northerly line, a distance of 110.11 feet to a point on the westerly line of that certain right-of-way granted to the City of Cottonwood and described on EXHIBIT B in Book 4217 of Official Records at Page 577 marked with a set 1/2 inch rebar with plastic cap "LS 48100";

Thence South 44°41'05" East, along said westerly line of right-of-way, a distance of 266.82 feet to a point marked with a set 1/2 inch rebar with plastic cap "LS 48100";

Thence southeasterly, along said westerly line of right-of-way, along a curve to the left having a radius of 440.00 feet, a central angle of 11°18'53", a chord of South 50°20'32" East, 86.75 feet, for an arc length of 86.89 feet to a point marked with a set 1/2 inch rebar with plastic cap "LS 48100";

Thence South 55°59'58" East, along said westerly line of right-of-way, a distance of 160.73

feet to a point marked with a set 1/2 inch rebar with plastic cap "LS 48100";

Thence southerly, along said westerly line of right-of-way, along a curve to the right having a radius of 260.00 feet, a central angle of 39°50'07", a chord of South 36°04'55" East, 177.15 feet, for an arc length of 180.77 feet to a point marked with a set 1/2 inch rebar with plastic cap "LS 48100";

Thence South 16°09'51" East, along said westerly line of right-of-way, a distance of 37.03 feet to an angle point (the intersection of said westerly line of right-of-way and the northerly line of the same right-of-way) marked with a set 1/2 inch rebar with plastic cap "LS 48100";

Thence South 73°50'09" West, along said northerly line of right-of-way, a distance of 252.15 feet to a point marked with a set 1/2 inch rebar with plastic cap "LS 48100";

Thence southwesterly, along said northerly line of right-of-way, along a curve to the left having a radius of 540.00 feet, a central angle of 28°29'01", a chord of South 59°35'39" West, 265.70 feet, for an arc length of 268.45 feet to a point marked with a set 1/2 inch rebar with plastic cap "LS 48100";

Thence South 45°21'09" West, along said northerly line of right-of-way, a distance of 28.66 feet to a point on the easterly right-of-way of said PRESCOTT-FLAGSTAFF HIGHWAY marked with a set 1/2 inch rebar with plastic cap "LS 48100";

Thence South 65°34'31" West, along said easterly right-of-way, a distance of 1.68 feet to the TRUE POINT OF BEGINNING.

Parcel Number 5:

That portion of Section 33, Township 16 North, Range 3 East, Gila and Salt River Meridian, Yavapai County, Arizona, being a portion of that certain parcel described in Book 3984 of Official Records at Page 65 and a portion of that certain parcel described in Book 3984 of Official Records at Page 67, records of Yavapai County, more particularly described as follows:

BEGINNING at the south quarter corner of Section 28, said Township and Range, also being the north quarter corner of said Section 33 marked with a found 1/2 inch rebar with set tag "LS 48100 (from which the southwest corner of said Section 23, marked with a found, bent, rebar with aluminum cap "RLS 40622", bears North 88°51'34" West, along the Basis of Bearing, a distance of 2648.46 feet);

Thence South 00°12'53" West, along the locally accepted north-south mid-section line of

said Section 33, a distance of 267.02 feet to a found 5/8 inch rod with set tag "LS 48100";

Thence South 00°09'20" West, along said mid-section line, a distance of 50.71 feet to a found 5/8 inch rod with set tag "LS 48100";

Thence South 00°03'34" West, along said mid-section line, a distance of 255.61 feet to a found 5/8 inch rod with set tag "LS 48100";

Thence South 00°03'40" West, along said mid-section line, a distance of 232.00 feet to a set 1/2 inch rebar with plastic cap "LS 48100";

Thence South 51°19'27" West, leaving said mid-section line, a distance of 314.55 feet to a set 1/2 inch rebar with plastic cap "LS 48100";

Thence North 82°42'30" West a distance of 365.30 feet to a set 1/2 inch rebar with plastic cap "LS 48100";

Thence South 50°11'05" West a distance of 788.61 feet to a point on the easterly right-of-way line of the PRESCOTT-FLAGSTAFF HIGHWAY per Drawing Number D-13-T-464 on file with the Arizona Department of Transportation and the Warranty Deed re-recorded in Book 4768 of Official Records at Page 553, records of Yavapai County marked with a set 1/2 inch rebar with plastic cap "LS 48100";

Thence North 40°37'27" West, along said easterly right-of-way, a distance of 98.00 feet to a found aluminum cap "ADOT ROW 2009 RLS 40622";

Thence North 54°34'50" West, along said easterly right-of-way, a distance of 145.28 feet to a found aluminum cap "ADOT ROW 2009 RLS 40622";

Thence North 33°34'45" West, along said easterly right-of-way, a distance of 195.46 feet to a found aluminum cap "ADOT ROW 2009 RLS 40622";

Thence North 47°31'02" West, along said easterly right-of-way, a distance of 142.00 feet to a found aluminum cap "ADOT ROW 2009 RLS 40622";

Thence North 39°20'00" West, along said easterly right-of-way, a distance of 212.52 feet to a found aluminum cap "ADOT ROW 2009 RLS 40622";

Thence North 23°02'27" West, along said easterly right-of-way, a distance of 60.45 feet to a found aluminum cap "ADOT ROW 2009 RLS 40622";

Thence North 34°04'27" West, along said easterly right-of-way, a distance of 45.50 feet to

a found aluminum cap "ADOT ROW 2009 RLS 40622";

Thence North 62°30'25" West, along said easterly right-of-way, a distance of 102.18 feet to a found aluminum cap "ADOT ROW 2009 RLS 40622";

Thence North 45°29'21" West, along said easterly right-of-way, a distance of 251.85 feet to a found aluminum cap "ADOT ROW 2009 RLS 40622";

Thence North 25°43'20" West, along said easterly right-of-way, a distance of 110.99 feet to a found aluminum cap "ADOT ROW 2009 RLS 40622";

Thence South 86°33'06" East, leaving said easterly right-of-way, a distance of 335.72 feet to a point;

Thence North 57°33'17" East a distance 204.00 feet to a point;

Thence North 05°37'52" West a distance of 407.23 feet to a point on the north line of the northwest quarter of said Section 33;

Thence South 88°51'35" East along said north line of the northwest quarter, a distance of 1645.61 feet to the POINT OF BEGINNING.

Section 2: That staff has determined the following items necessary as conditions of the zoning approval to protect the public health, safety and general welfare:

1. Prior to or concurrent with the subdivision platting process, the Developer and the City shall negotiate and execute a Development Agreement (DA) which, among other things, shall outline the residential phasing plan and infrastructure plan for the Master Development Plan (MDP); and provide for the payment of a capacity fee of \$4,000.00 per residential unit at the time of building permit issuance for access to and use of the City's existing water and wastewater infrastructure.
2. The development standards, master site plan and residential densities described in the MDP dated August 2016 shall supersede any previously approved PUD, PAD or MDP.
3. The Project shall be consistent with the Master Development Plan (MDP) as revised August 2016. There shall be no more than 555 residential dwelling units approved for the development, as described in the MDP. The developer shall attempt to provide the residential diversity through the mix of housing types described in the MDP.

4. The Project shall be consistent with the comments from the Code Review Board meeting of March 15, 2016 (attached Exhibit A.)
5. The Project shall be consistent with the comments received from the Fire & Medical Department dated June 28, 2016 (attached Exhibit B.)
6. The Project shall be consistent with the comments from Engineering Department dated July 8, 2016 (attached Exhibit C.)
7. The Project shall be consistent with the requirements of the Utility Department regarding installation of water and sewer improvements, including timelines, scheduling, standards and fees.
8. The Project shall conform to the requirements of the Public Works Department regarding grading and drainage plans, stormwater management and street engineering.
9. A Traffic Impact Study (TIS) shall be submitted with Phase 2 or at 50 homes, whichever comes first, with plans to be approved by staff and ADOT. All streets, public and private, shall be built to City standards. The Developer shall provide written approval from ADOT prior to the construction of each phase.
10. Indicate one (1) foot vehicular non-access easements for detached single-unit residential parcels abutting designated collector streets and along state highways.
11. All site grading activity shall be subject to City requirements for dust control, including use of treated effluent for dust suppression.
12. For trails that are located along drainage washes, locate the trail along the top or upper side of slope and not within the floodway or drainage bottom. Non-motorized trails shall be located within open space tracts and designated public access easements; and the homeowners association shall be responsible for maintenance of all park, open space and trail improvements. Trail alignments shall be shown on the Preliminary Plat with access points indicated. Trails shall be designed with a minimum six (6) foot width tread or travel surface.
13. The Developer shall be required to submit all required future plans to the Planning and Zoning Commission for Design Review prior to or concurrent with the applicable phase of the Preliminary Plat for all areas and features not included as part of the Master Development Plan, including any condominium development, multi-unit residential, town homes, commercial uses, community facilities, parks and trails,

landscaping and project signs, as well as any additional or modified site features or building designs.

14. Prior to or concurrent with each phase of development as submitted for the applicable Preliminary Plat application, the Developer shall provide landscape plans, as per Zoning Ordinance Section 407, for areas and uses subject to design review. Indicate that the homeowners association shall be responsible for maintaining the landscaping in public right-of-ways and other areas as proposed.
15. All public infrastructure (streets, water, sanitary sewer, storm drainage, reclaimed water, etc.) shall be constructed in accordance with the current edition of the Maricopa Association of Governments, Uniform Standard Details for Public Works Construction, Maricopa Association of Governments, Uniform Standard Specifications for Public Works Construction, Article 6 of the City of Cottonwood Subdivision Ordinance, the approved Traffic Impact Analysis (TIA), the Water and Wastewater Master Plan for the subdivision, and generally accepted engineering principles. Additional requirements may be required at the discretion of the City of Cottonwood Engineer.
16. Drainage improvements shall be designed in accordance with the Drainage Design Manual for Yavapai County and City Ordinances 172 & 615. Additional requirements may be required at the discretion of the City of Cottonwood Engineer.
17. Public and private roads shall be constructed per the subdivision ordinance or the most current applicable city standards.
18. No parking will be allowed on any streets (private) that are 20' wide. Parking on one side of the road will be allowed on streets that are 26' wide, except where Fire Hydrants are located.
19. All road/street heights, widths, cul-de-sac and hammerhead turn around distances shall meet the requirements in the 2012 International Fire Code appendix D and the City of Cottonwood conditions.
20. A secondary approved temporary access road shall be installed before phase II construction is started. A permanent approved collector street accessing North Main Street shall be installed and fully accepted by the City of Cottonwood before phase II is 25% completed.
21. Construction of the roadway extension for Groseta Ranch Road north to Main Street shall be started as soon as practicable ensuring that the road is completely constructed and accepted by the City of Cottonwood no later than March 1, 2020. The

developer shall fund the construction of Groseta Ranch Road to City collector street standards from SR 89A to N. Main Street.

22. At the gated entrance to the On the Greens subdivision, from Anna's Ave., the Cottonwood Fire and Medical Department has an emergency vehicle preemption signal device on the coded gate system that requires a clear visible path from Groseta Ranch Road in order to operate correctly. The developer shall coordinate any future placement of trees and shrubs within this corridor that may prevent this device from working correctly.
23. The Developer shall dedicate an Aviation Easement to the City of Cottonwood due to subject property's proximity to the Cottonwood Airport. This easement shall be identified on the subdivision plat.
24. A Certificate of Zoning Compliance documenting the completion of conditions of approval as specified by the Master Development Plan shall be issued prior to approval of any Certificate of Occupancy for the project. A Certificate of Zoning Compliance may be issued for individual Phases, as defined in the MDP.
25. The plat shall display all 100 year flood plains. All lots adjacent to or including any flood plain designation shall include a base floor elevation shown on the plat.
26. City connection point will be into a manhole on the gravity sewer at Kindra Heights and N. Main Streets designated on Utility Department maps as 3-26-7 or a comparable point to be determined by mutual agreement between the Developer and the City. The connection point manhole shall be coated with a material specifically designed to prevent concrete manhole degradation caused by hydrogen sulfide or other corrosive materials.
27. Prior to issuance of the first Certificate of Occupancy for the project, the Developer shall be required to construct the sewer main line from the subdivision to the designated and approved tie-in point.
28. Residents shall be charged the standard monthly sewer rates, charges and fees per household. These fees are set by the City Council and are subject to annual review.
29. All work within City rights of way, or on City systems or property will be coordinated with the appropriate City Department(s), utilizing the most current specifications, techniques and materials. All work shall be performed by individuals or firms properly licensed or registered within the State of Arizona to perform such work. Companies or individuals working within the City of Cottonwood rights of way shall obtain and keep current a City of Cottonwood business license for the

duration of the project.

30. Developer shall install domestic water services utilizing only Utility Department approved materials and supplies.
31. Meter box type, size and materials shall be approved by the City Utility Department prior to installation. Installation type shall mate with the appropriately sized Utility Department meter.
32. Per Arizona statute and City Code, backflow devices if required shall be installed, tested and certified prior to initiation of water service.
33. Fire hydrant type and manufacturer shall be approved by City prior to installation.
34. All sewer manholes shall be readily accessible by truck mounted equipment typically required to maintain municipal sewer systems.
35. If manholes are constructed as part of a trail system, the trail shall be constructed utilizing methods and materials to allow routine access by sewer maintenance equipment.
36. If the utility improvements specified within the Development Agreement and the approved plans are not complete within 5 years of the signed date of the Development Agreement, the Development Agreement shall be subject to cancellation by the City Council unless adjusted or extended by the City Council.
37. Fees shall be applied per section 15.52 of the Cottonwood Municipal Code and/or as otherwise provided by the Development Agreement, the City Code, and these stipulations.

Section 3: The zoning map shall be amended to reflect this zone change only upon compliance with all zoning conditions set forth herein.

Section 4: That at least three (3) copies of the zoning map of the City of Cottonwood, Arizona, as hereby amended be kept in the office of the City Clerk for public use and inspection.

Section 5: Severability: That if any section, subsection, sentence, clause, phrase or portion of this ordinance adopted herein is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such a decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL AND APPROVED BY THE

Ordinance Number 622
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MAYOR OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, THIS ____ DAY OF
NOVEMBER 2016.

Diane Joens, Mayor

APPROVED AS TO FORM:

Steve Horton, Esq, City Attorney



VIA EMAIL

March 18, 2016

Michel Foster
Granite Mountain Asset Management
7765 N. Williamson Valley Rd.
Prescott, AZ 86305

Re: CRB # 16-008 Vineyards at Cottonwood

Dear Mr. Foster,

Thank you for attending the March 15th Code Review Meeting, we look forward to working with you on this project. This project is required to go to the Planning and Zoning Commission and City Council for rezoning approval.

Below is a process summary and comments regarding this project.

- 1) **P&Z & City Council Hearings Zone Change.** A hearing application is required (submitted following Code Review), with a fee for Re-zoning. Fees for re-zoning are \$750 + \$35 per acre. The Planning & Zoning Commission meets at 6 PM on the third Monday of each month, except during holiday months. After you submit your hearing application with all required documents and the required neighborhood meeting is held, you will be scheduled to attend a P&Z meeting. You must have a representative who is familiar with all aspects of this project attend this meeting.

If the Planning & Zoning Commission recommends approval for the rezone, it will then be presented to the City Council for final approval. This meeting will be scheduled after Planning & Zoning approval and will require two hearings.

Please review the Cottonwood Zoning Ordinance procedural codes for Design Review (Article III, Sec. 304), Amendments or Zone Changes (Sec. 301), and PAD requirements (Sec. 424). Other design related codes pertaining to signs, parking, landscaping, and lighting are found under Sections 405-408. The zoning ordinance is on-line at <http://cottonwoodaz.gov>.

- 2) **Site Improvement Permits:** Grading and Building Permits may not be issued nor any site work commenced until after Planning & Zoning approval.

- 3) **Certificate of Occupancy:** Issuance of a Certificate of Occupancy is required prior to use of this building. All requirements stipulated as part of the Code Review and Planning & Zoning process must be addressed before the Certificate of Occupancy will be issued.

DEPARTMENT COMMENTS REGARDING SUBMITTAL

Planning – Charlie Scully, csully@cottonwoodaz.gov (928) 634-5505 x 3323

BACKGROUND:

In 2001, subject property was rezoned to Planned Unit Development (PUD-C & PUD-R) Zone for the “Groseta Ranch Master Plan,” which included approximately 144 acres. PUD zoning city-wide was subsequently renamed Planned Area Development (PAD) Zone. The former project did not proceed past the zoning approval process. The current proposal represents a substantially different project in terms of the general layout, the mix of uses, circulation and access. The current proposal includes rezoning with a new PAD Zone Ordinance and Master Development Plan.

MASTER DEVELOPMENT PLAN

The proposed “The Vineyards at Cottonwood” project includes approximately 101 acres. A new parcel, 28.53 acres in area, located to the south of the Vineyards at Cottonwood project at Verde Heights Drive is NOT part of the current proposal. The 28.53 acre parcel will be retained by the current property owner for future development through a separate application process. Future planning, layout and use of the corner property at Verde Heights Drive and SR 89A will be through a separate process subject to separate zoning review and public notification.

Zoning Ordinance, Section 424. PAD (Planned Area Development) Zone, describes the procedures and includes the outline for a Master Development Plan (MDP.) PAD zoning provides an opportunity for proposing a unique custom designed development project. In return for flexibility with zoning and development standards, the applicant is required to submit a separate Master Development Plan document that allows review of the overall proposal in a comprehensive and coordinated format, so as to allow the reviewing agencies an opportunity to determine compliance with objectives.

The MDP is a separate document, submitted in a ring binder format, that includes a detailed project narrative, supporting exhibits describing the proposed uses, development standards, design guidelines, project phasing data, maintenance responsibilities and other supporting documentation, as well as detailed graphic exhibits, including proposed site plan, landscape plan, building designs, and other project elements, as described in the PAD Zone section of the Zoning Ordinance. PAD Zoning supports a master planned approach to property development and encourages quality mixed-use development with integrated open space and natural lands preservation.

MDP Project Narrative:

Section 424 provides an outline for the project narrative, including:

- Name and Contact Information.
- Data Summary.
- Project Objectives.

PROJECT SUMMARY AND PHASING

Information in this section needs to be confirmed for the MDP submittal.

- 7-10 year total project lifespan for build-out.
- 6 housing phases, each with roughly consistent mixes of single family, patio homes, and condominiums.

Total: (523 residential units)

101 acres. Gross Density- 5.17 units per acre

- ____ single family homes
- ____ patio homes
- ____ row homes
- ____ condominium units
- ____ acres commercial development

Phase 1 (____ units)

Units 1-4

- ____ single family homes
- ____ patio homes
- 32 condominiums
- 1 acre organic farm with farmers market

Phase 2 (____ units)

Units 5-7

- ____ single family homes
- ____ patio homes
- ____ Row Homes
- Condominium exercise, social room and pool
- 4 acres commercial development

General Plan Review:

The Applicant provides a written statement in the MDP describing how the proposed project conforms to the objectives of the Cottonwood General Plan.

Staff General Plan Analysis: The proposed PAD zoning is in conformance with the General Plan Land Use classification for this property, which is designated as Planned Development (PLD). The PLD Land Use classification in the Cottonwood General Plan 2025 supports the Planned Area Development (PAD) Zoning District designation.

Graphic Exhibits: Typical Planning exhibits include:

Site Plan
Topographic map
Phasing Plan
Housing Elevations/Renderings
Open Space & Landscape Plan.

Property Development Standards:

PAD Zoning allows the Applicant to propose unique standards for the project with the understanding that the project will include superior design and character. The MDP serves as the guide for documenting the unique standards for a project. The Applicant shall include all proposed standards, including narrative descriptions and any graphic exhibits.

Typical property development standards may include: Setbacks, Parcel Size, Lot Coverage, Open Space requirements, Parking and Driveway standards, and similar features.

Design Guidelines: Section 424.D.2.g. “Design Guidelines” provides information for documenting Design Guidelines. This includes a narrative section and graphic exhibits, as needed, to adequately describe typical design elements, materials and colors for buildings and site features. This typically includes statements and guidelines to describe:

- General Guidelines.
- Architectural Theme.
- Building Design.
- Screening/Buffering from adjacent properties.
- Site Features: walls, entry signs.
- Landscaping: May included plant list, description of special features, design details.

Screening and Buffering:

1. Describe the east boundary of the project in relation to the existing homes and properties. Will there be any landscaping, fence or wall? How close are the new homes to the neighboring properties?
2. New residential development is proposed along the State Route 89A corridor. What does this look like and is there any screening or buffering, such as walls, fences, or landscaping along the highway? A cross section showing relationship of the highway to the residential development with the grade change would help explain the condition.

Landscape Plan:

A landscape plan for the overall development at this stage indicates general landscape and open space areas. This may include natural open space, drainage features, right-of-way areas, streetscape, pedestrian areas, walking paths, common areas, project entry features and residential areas, where applicable. A Landscape Plant table indicating categories, such as trees, shrubs and ground cover, is typically included. Strict adherence to drought-tolerant plant varieties is expected.

Open Space Standards:

There is an expectation that projects with PAD Zoning will include open space features as an integrated component of a quality master planned community. The ordinance describes open space as both natural and developed areas. For residential and mixed-commercial PAD development, the ordinance describes 30% minimum gross acreage, excluding public and private right-of-way.

Parks and Community Amenities

A separate site plan is typically used to show various open space and park features, including park and recreation amenities, walking paths, flood and drainage areas, detention basins, developed common areas, landscaped areas, and preserved natural areas. Provide descriptions and typical details to help describe the character of such areas.

Trails.

The goal of including walking trails in and around planned developments is described in the PAD Zone ordinance and MDP outline. The MDP should show the proposed location on map and describe basic design, surface treatment and any relevant details. The Subdivision plat should also include trail and walkway locations.

Circulation Standards:

Existing streets include Groseta Ranch Road, providing access from the roundabout on State Route 89A, and Anna's Street connecting Groseta Ranch Road to On the Greens development.

Traffic Impact Study:

The Zoning Ordinance, Section 424. PAD Zoning indicates that a Traffic Impact Study (TIS) is required for residential development with 50 or more units proposed, including where part of larger phased development. Any TIS need to be coordinated through the City Engineer.

Access and Driveways:

All access points to the development need to be described as part of the MDP. The roundabout at Groseta Ranch Road is indicated as the primary access. The extension of Groseta Ranch Road to Main Street is indicated as future second access. Any additional access at State Route 89A needs to be approved by ADOT.

Interior Circulation:

Describe typical streets, and include provisions for pedestrian and bicycle circulation. Cottonwood Area Transit (CAT) should be consulted for possible location/s of bus shelter, in the event that future transit routes would include a bus stop for the development

Statement of Water Use:

Recognizing the importance of having a sustainable supply of water, the City of Cottonwood in 2009, obtained from the Arizona Department of Water Resources (ADWR) a "Designation of Adequate Water Supply" for 6,000 acre-feet of water annually, which is more than twice the volume of groundwater pumped in 2013. In order to obtain this designation, the City demonstrated to ADWR that 6,000 acre-feet of groundwater will be continuously available to be pumped from the aquifer for 100 years without causing the groundwater table to decline below a

statutorily defined limit. By becoming a Designated Adequate Water Provider, all proposed subdivisions within the City's service area are designated as having a sustainable supply of water to meet their needs. Developers are not required to submit a separate hydrologic study to the State for the subdivision process, as the city-wide designation covers this requirement.

Water Conservation Plan:

The PAD Zone provides an opportunity to propose a comprehensive approach to water conservation for the development. The City ordinance requires greywater dual plumbing for all new residential units; however, the PAD Zone provides an opportunity to waive the dual plumbing requirement for individual residences in return for meeting objectives through a conservation program. Low water plumbing fixtures, rainwater harvesting, drought-tolerant landscaping, or other innovative measures can be included in a water conservation plan.

Development Phasing Plan:

A site map should be submitted showing the phasing plan for the overall project. Land development may occur in phases; infrastructure phasing needs to be determined, as per system requirements, on a case-by-case basis. The requirements for phased infrastructure development, including roads, water lines and wastewater systems, need to be determined based on system requirements. In some cases, extended infrastructure will need to be installed at an earlier phase, so as to meet operational or system requirements.

SUBDIVISION PROCESS:

The subdivision platting process is guided by the City's Subdivision Ordinance and State Statute. Subdivision is done through a separate application process that requires review and approval by the Planning and Zoning Commission and City Council. The zoning approvals for the proposed Planned Area Development project must be obtained first with subdivision of land to follow. A Preliminary Plat for the complete project is required to be approved by the Planning and Zoning Commission and City Council. Final Plats for separate phases and units may then be approved by the City Council.

1. Development Agreement:

A Development Agreement describing responsibilities of the City and the Developer may be proposed as part of the subdivision process.

2. Condominium Plat:

There are questions about how the condominium component of the project will be established. Will the undivided common interests for the condominium units include the immediately surrounding landscaped areas, parking lots and sidewalks, or will that be covered a separate Tract owned by the property owners association for the entire project? Arizona Revised Statutes §§ 9-463 and 33-1201, et seq., and the Cottonwood Subdivision Ordinance, Article 8, Condominiums, address procedures and standards for condominiums.

3. Flag Lots:

The PAD zoning provides flexibility with typical lot layout requirements. Under standard zoning categories, the creation of all new parcels shall have minimum frontage on City streets. “Flag lots” also called “cherry stem lots,” where lots have long driveways providing minimal street frontage at the driveway connection are not permitted as part of standard zoning districts, which require minimum street frontage width. Flag lots have the effect of creating isolated parcels along the street, difficult design challenges with residences essentially located in backyards, and street character defined by excessive driveways within a short section. Details are needed.

4. Flag Lot Typical Housing Layout:

PAD Zoning allows consideration of flexibility with standards in return for providing a superior quality development. A typical detail showing how the homes are laid out on the “flag lots,” including the relationship and orientation of the street front units and rear flag lot units, needs to be shown. Driveways could potentially be shared through the use of easements so as to minimize the overall number of driveways. Showing the design details for how these homes are laid out will help make the case for how the flag lots contribute to the neighborhood quality and character.

Planning Comments:

1. The application for PAD (Planned Area Development) Zoning requires submittal of a MDP (Master Development Plan,) as per Section 424 (PAD Zone) of the Cottonwood Zoning Ordinance. The MDP is specific to each PAD Zone project and will serve as the guide for development for this project for many years to come. For that reason the MDP is submitted in a ring-binder format and includes the zoning details, property development standards and design review guidelines that become adopted in relation to the PAD ordinance.
2. Housing: Several types of residential uses are indicated, including patio homes, row house, multi-family and single family. The types of housing, typical design styles and typical lot layout should be provided to understand the different types of residential uses.
3. The Design Review describes the character and theme for various components of the buildings and site features. Materials and colors are described. Lighting fixtures for homes and common areas should be described.
4. Open Space and Landscape Plan: A separate plan should identify different types of open space features with estimates of area. Landscaping describes plant varieties and general areas to be landscaped, with separate details provided where needed to describe features.
5. Provide information regarding any screening or buffering proposed along the east project boundary where lots are shown abutting existing properties, including any walls, fences, berms or landscaping.

6. Parking and Driveway Details. There are several parking lots shown. Descriptions of design details and number of spaces should be indicated. For single family units, describe off-street parking, including any covered spaces, setbacks from street and relation to home.
7. Provide information and graphic exhibits for the proposed layout of “Flag Lot” units, including the relationship and orientation between the street front dwelling units and the interior flag lot units. Options to minimize driveways should be considered. Typical layouts for the flag lot properties are needed so as to be able to adequately review the proposal.
8. Provide information on the treatment of residential properties abutting State Route 89A, including any proposed walls, fences or landscaping. Provide cross-section drawings where residential properties front on the highway showing relationship of highway to buildings in terms of grade change, as well as the location of any screening walls and landscaping. What does the view of the residential buildings look like from State Route 89A?

Engineering / Public Works – Robert Winiecke, rwiniecke@cottonwoodaz.gov (928) 634-8033

1. Portions of the subject property lie both within and outside of Special Flood Hazard Areas (SFHA) designated by FEMA on the City of Cottonwood’s current FIRM Maps. Work being performed in the SFHA will require the developer to obtain a “Floodplain Development Permit” and comply with additional permitting requirements as necessitated by this proposed work activities. Areas that fall outside of the SFHA contain several well defined washes inscribed into the land. The developer will be required to perform a detailed “Hydrologic & Hydraulics” study to delineate the 1-percent annual chance occurrence floodplain in these areas in accordance with the Yavapai County Drainage Design Manual (and general engineering standards) and show this information on all subdivision plats (including regulatory flood elevations where applicable). This study may be incorporated into the subdivision Drainage Master Plan required per City Ordinance #172.
2. If a lot is constructed upon falls within the SFHA or delineated floodplain, upon completion of building the structure the Developer shall submit a copy of a completed “Elevation Certificate” (see FEMA Form 086-0-33, current version) prepared by a Surveyor licensed to practice in the State of Arizona verifying the structure’s “As-Built” condition to the City’s Floodplain Administrator. The Contractor shall be aware that additional site inspections will be required by the Floodplain Administrator following slab form placement (but prior to concrete pouring) and as otherwise be deemed necessary.
3. The developer shall be responsible for preparing any and all paperwork associated with requesting changes to the City of Cottonwood’s FIRM maps by the FEMA. All expenses for requesting and filing any LOMA, LOMR, LOMR-F, CLOMR, and CLOMR-F shall be the responsibility of the developer.

4. A Traffic Impact Analysis Report will be required for this development. Areas of particular concern are: the intersection of Groseta Ranch Road & SR 89A (roundabout), Groseta Ranch Road, Anna's Avenue and the intersection of Groseta Ranch Road & Main Street.
5. A Master Water plan will be required for this development.
6. A Master Wastewater plan will be required for this development.
7. The Developer shall be responsible for constructing the Groseta Ranch Road Extension to Main Street per City of Cottonwood Standards.
8. The Developer shall be responsible for constructing the Anna's Avenue Extension to northwest along the north boundary of Phase 1-Unit 2 (North) to the end of his development per City of Cottonwood Standards.
9. A Stormwater Pollution Prevention Plan will be required for this project.
10. The preferred width of sidewalks for public use is 6'. The preferred location for sidewalks along arterial and collector streets is detached from the back of curb with a landscape buffer. For sidewalks installed along local streets with narrower rights of way may be attached to the back of curb.
11. Final engineering plans shall be submitted to the City of Cottonwood Engineering Dept. for review and approval prior to the commencement of any work and any permits being issued.
12. Tract A – Two of the three proposed condominium buildings are shown to span the existing wash channel. Are you proposing to re-route the wash or install culverts?
13. The proposed "Public Road" serving lots 106, 107, 108 is shown as a dead end street. This will not be allowed and shall be revised.
14. What is being proposed at Lot 92 & 93.
15. The proposed "Public Road" serving lots 69-76 is shown as multiple dead end streets. This will not be allowed and shall be revised.
16. All proposed "Public Roads" shall be named throughout the subdivision.
17. The developer shall dedicate a 1' Vehicular Non-Access Easement along the rear property line of parcels abutting SR 89A, Groseta Ranch Road & Anna's Avenues.
18. All proposed "Public Roads" shall be platted, designed and constructed in accordance with the City of Cottonwood Subdivision Ordinance.
19. Pedestrian Access, including crosswalks and signage at major street intersections shall be required as well as anywhere a walking trail crosses a public road.

20. The use of “Flag lots” is strongly discouraged as it makes driveway placement and future maintenance difficult.
21. The developer shall dedicate a drainage easement along the new property line dividing the commercial and residential developments (line shown with a bearing of S50 ° 11’ 05” W and a distance of 788.61’).
22. All designed slopes shall be a maximum of 3:1 and have provisions for slope stabilization installed. Deviations may be considered by the City Engineer on a case-by-case basis and by no means should be a waiver of this requirement be expected.
23. All disturbed areas within the development shall be either hydroseeded or landscaped.
24. Please provide a master site plan showing the proposed development in its entirety in an engineering format.
25. How does the developer propose to connect existing public roads adjacent to the development (i.e. Ocotillo or Apsco Lane)?

Utilities – Mike Traynor, mtraynor@cottonwoodaz.gov (928) 634-0186

1. Please contact for comments.

Fire Department- Rick Contreras, rcontreras@cottonwoodaz.gov (928) 634-2741

All plans and designs shall fully comply with the 2012 International Fire Code {IFC} and the 2012 International Building Code {IBC} and per the Cottonwood Fire Departments Conditions.

1. Fire sprinklers shall be installed throughout the building{s} per NFPA 13 and all local regulations. The system shall be designed to meet the Hazard Class.
2. All plans, designs and fire flow calculations shall fully comply with the 2012 International Fire Code Appendix B and Chapter 5 of the IFC and per the Cottonwood Fire Departments Conditions.
3. Fire hydrants and all water supply systems shall be installed, inspected, tested and accepted in accordance with all fire code requirements before any building materials and combustibles are allowed to arrive on site. Coordinate the installation and exact location of the fire hydrants with the Cottonwood Fire Marshal and the City of Cottonwood Utilities Department. {A reduction of fire hydrants and/or distance may be allowed}.
4. All road/street heights, widths and cul-de-sac shall meet the requirements in the 2012 IFC and the City of Cottonwood conditions.

5. A secondary approved temporary access road shall be installed before phase II construction is started. A permanent approved collector street accessing North Main Street shall be installed and fully accepted by the City of Cottonwood before phase II is 25% completed.
6. All addressing and street names shall be coordinated and approved with the Cottonwood Fire & Medical Department and shall meet the conditions of Chapter 5 and appendix D of the 2012 IFC.
7. Fire alarms shall be installed in all commercial and mixed use buildings per NFPA 72 and NFPA 70.
8. The Cottonwood Fire and Medical Department looks forward to working alongside the developer/contractor on this upscale subdivision project that will provide the most up to date current fire and life safety systems and code requirements within the State of Arizona. These features will provide our citizens and property with enhanced fire protection for many years to come.
9. If there are any questions please feel free to contact the Cottonwood Fire Department at 928} 634-2741 or email rcontreras@cottonwoodaz.gov
10. **These comments are preliminary, and final determinations, comments and approvals will be provided upon review of the final sets of plans submitted. No Certificate of Occupancy will be signed or issued by the Fire Marshal until all Fire Department conditions and requirements are fully met.**

Fire Alarm Plan Comments

1. Fire Alarms shall be installed per NFPA 72 and all applicable codes and standards.
2. All Fire Alarm Plans shall be provided to the Cottonwood Fire Department for approval before the work to the Fire Alarm system starts. The Fire Alarm shall be tested by the Fire Marshal or his representative.
3. A Certification of Completion per NFPA72 shall be completed by the contractor and provided to the Cottonwood Fire Departments Fire Marshal after the testing and acceptance of the fire alarm system is completed.
4. Fire Alarm Panel location signage is required, verify the exact verbiage with the Cottonwood Fire Marshal {see item #5 for details and size}
5. If there are any questions please feel free to contact the Cottonwood Fire Department

6. **Final determinations, comments and approvals will be provided upon review of the final sets of plans submitted. No Certificate of Occupancy will be signed or issued by the Fire Marshal until all Fire Department conditions and requirements are fully met.**

Building Department- Steve Jackson, sjackson@cottonwoodaz.gov (928) 634-5505 x3317

1. All plan submittals shall be thru the Community Development Department.
2. All change orders which occur following the issuance of a building permit must be approved by city staff or they will be cited as part of the final inspection and must be remedied before a certificate of occupancy will be issued.
3. Specify the Building area, Construction type, and Occupancy classification.
4. Two sets of plans shall be submitted for each building for review accompanied by a completed Building Permit application.
5. Buildings will be required to be sprinklered which is a separate permit.
6. The City of Cottonwood follows all the 2009 IRC and IBC Building codes along with the 2008 NEC code.
7. All work will be done by contractors licensed by the State of Arizona and the City of Cottonwood.
8. All exterior lighting including home lighting will have to meet the dark sky ordinance of fully shielded fixtures only.

Yavapai County Community Health Services – John Alden, john.alden@yavapai.us (928) 634-6893

1. Any facilities selling food, beverage (to include wine tasting), or retail foods will require a separate plan review by health. One complete set of plans and appropriate review fee (based on square footage) will be required for each facility. No plan review by health for the condominium pool. Once pool is completed and approved, health will then license and conduct inspections.

NOTE: All plan submittals shall be through the Community Development Department. Changes to project proposals following Design Review approval which have been incorporated into permit submittal must be highlighted in writing and attached to the building permit, or they will not be considered approved. All change orders which occur following issuance of a building permit must be approved by City Staff, or they will be cited as part of the final inspection and must be remedied before a Certificate of Occupancy will be issued.

Please call if you have any questions.

Sincerely,

Scott Ellis
Planner



City of Cottonwood

Engineering Dept.

Date: July 8, 2016

Mr. Charles Scully
City of Cottonwood
111N Main St.
Cottonwood, AZ 86326

RE: Vineyards @ Cottonwood Comments

Dear Mr. Scully:

The following comments pertain to Vineyards@ Cottonwood Master Development Plan, submitted to the City on June 20, 2016:

1. All public infrastructure (streets, water, sanitary sewer, storm drainage, reclaimed water, etc.) shall be constructed in accordance with the current edition of the Maricopa Association of Governments, Uniform Standard Details for Public Works Construction, Maricopa Association of Governments, Uniform Standard Specifications for Public Works Construction, Article 6 of the City of Cottonwood Subdivision Ordinance (06/07/OS) and generally accepted engineering principles. Additional requirements may be required at the discretion of the City of Cottonwood, Engineer.
2. Drainage improvements shall be designed in accordance with the Drainage Design Manual for Yavapai County and City Ordinances 172 & 615. Additional requirements may be required at the discretion of the City of Cottonwood, Engineer.
3. Public roads shall be a minimum of 30' wide back of curb to back of curb. Streets with a width less than 30' back of curb to back of curb shall be considered to be private streets and will not be publically maintained. If a street width of less than 30' back of curb to back of curb is desired, the minimum width shall be dictated by the requirements set forth by the City of Cottonwood Fire Department.
4. Time is of the essence for the construction of Groseta Ranch Road north to Main Street. Construction of the roadway extension shall be started as soon as practicable ensuring that the road is completely constructed and accepted by the City of Cottonwood no later than March 1, 2020. Failure to comply will result in ownership of the granted right of way reverting back to the property owner.
5. The Developer shall dedicate an Avigation Easement to the City of Cottonwood due to subject property's proximity to the Cottonwood Airport. This easement shall be identified on the subdivision plat.

If you have any questions or need additional information, please do not hesitate to contact me at 928.634.8033 or via e-mail at rwieniecke@cottonwoodaz.gov.

Respectfully,

A handwritten signature in blue ink, appearing to read 'RWieniecke', is positioned above the typed name.

Robert L. Wieniecke, P.E., CFM
Engineer



FIRE & MEDICAL DEPARTMENT

TO: Berrin Nejad, Community Development Manager
FROM: Rick Contreras, Fire Marshal
DATE: June 28th 2016
SUBJECT: The Vineyards at Cottonwood Subdivision Preliminary Requirements

GENERAL FIRE DEPARTMENT COMMENTS

The Cottonwood Fire and Medical Department looks forward to working alongside the developer/contractor on this upscale subdivision project that will provide the most up to date current fire and life safety systems and code requirements within the State of Arizona. These features will provide our citizens and property with enhanced fire protection for many years to come. As a reminder, all plans and designs shall fully comply with the 2012 International Fire Code {IFC} and the 2012 International Building Code {IBC} and per the Cottonwood Fire Departments Conditions. Please review the comments that are listed below.

- A full complete set of detailed stamped plans shall be provided to the Cottonwood Fire & Medical Department for review and prior approval of all phases before the work is permitted to start.
- Any buildings that exceeds 30' of the vertical distance between the grade plane and the highest roof surface shall meet all the requirements of Appendix D section D105.

FIRE SPRINKLER & FIRE ALARM COMMENTS

- Fire sprinklers shall be installed throughout the building{s} per NFPA 13 and all local regulations. The system shall be designed to meet the Hazard Class.
- Fire alarms shall be installed in all commercial and mixed use buildings per NFPA 72 and NFPA 70.

*Community risk reduction through:
Experience – Education – Engineering - Enforcement*

FIRE HYDRANT AND FIRE FLOW COMMENTS

- All plans, designs and fire flow calculations shall fully comply with the 2012 International Fire Code Appendix B and Chapter 5 of the IFC and per the Cottonwood Fire Departments Conditions.
- Fire hydrants and all water supply systems shall be installed, inspected, tested and accepted in accordance with all fire code requirements before any building materials and combustibles are allowed to arrive on site. Coordinate the installation and exact location of the fire hydrants with the Cottonwood Fire Marshal and the City of Cottonwood Utilities Department. {A reduction of fire hydrants and/or distance may be allowed} per appendix C of the IFC.

STREET / ACCESS / TURNAROUND COMMENTS

- All road/street heights, widths, cul-de-sac and hammerhead turn around distance {s} shall meet the requirements in the 2012 International Fire Code appendix D and the City of Cottonwood conditions.
- A secondary approved temporary access road shall be installed before phase II construction is started. A permanent approved collector street accessing North Main Street shall be installed and fully accepted by the City of Cottonwood before phase II is 25% completed.
- Tract "G" and Tract "F" may not meet the requirements stated within appendix D table D103.4. Provide a detailed plan of these Tracts for review and approval.
- No parking will be allowed on any streets that are 20' wide. Parking on one side of the road will be allowed on streets that are 26' wide, except where Fire Hydrants are located.
- Fire lanes shall be provided and shall be a minimum of 20' wide and have a vertical clearance of 13'6" and maintained within 150' of any part of the building. 12"x 8" Red retro reflective Fire Lane signs stating "No parking by order of the Fire Marshal" shall be posted at every 75'. All curbs in the Fire Lane shall be painted red with 4" white letters stating "No Parking Fire Lane" painted on the curb face. Coordinate exact areas of signage requirements with the Cottonwood Fire & Medical Department.

MAPPING / ADDRESSING COMMENTS

- All addressing and street names shall be coordinated and approved with the Cottonwood Fire & Medical Department Lieutenant Jeff Boyd. There may be some conflicts with the proposed street names that are currently listed. All requirements and conditions shall meet the conditions of Chapter 5 and appendix D of the 2012 IFC.

LANDSCAPING PLAN

- At the gated entrance to the On the Greens subdivision {from Anna's Ave.}, The Cottonwood Fire and Medical Department has an emergency vehicle preemption signal device on the coded gate system that requires a clear visible path from Groseta Ranch Road in order to operate correctly. Please coordinate any future placement of trees and shrubs within this corridor that may prevent this device from working correctly.

FIRE MARSHAL DIRECT COMMENTS

- We believe that this will be an outstanding project that will satisfy all of the Fire and Life Safety Code requirements throughout the entire subdivision. Our goal is to provide you {the developer} with outstanding customer service, and also provide our citizens with the safest living community as possible. We value your experience within the development/construction profession in Northern Arizona and look forward to hearing input from the developer so that we are all on the same page throughout this process.
- If there are any questions or comments, please feel free to contact the Cottonwood Fire Department at 928} 634-2741 or email rcontreras@cottonwoodaz.gov
- **These comments are preliminary, and final determinations, comments and approvals will be provided upon review of the final sets of plans submitted. No Certificate of Occupancy will be signed or issued by the Fire Marshal until all Fire Department conditions and requirements are fully met.**

MASTER PHASE PLAN

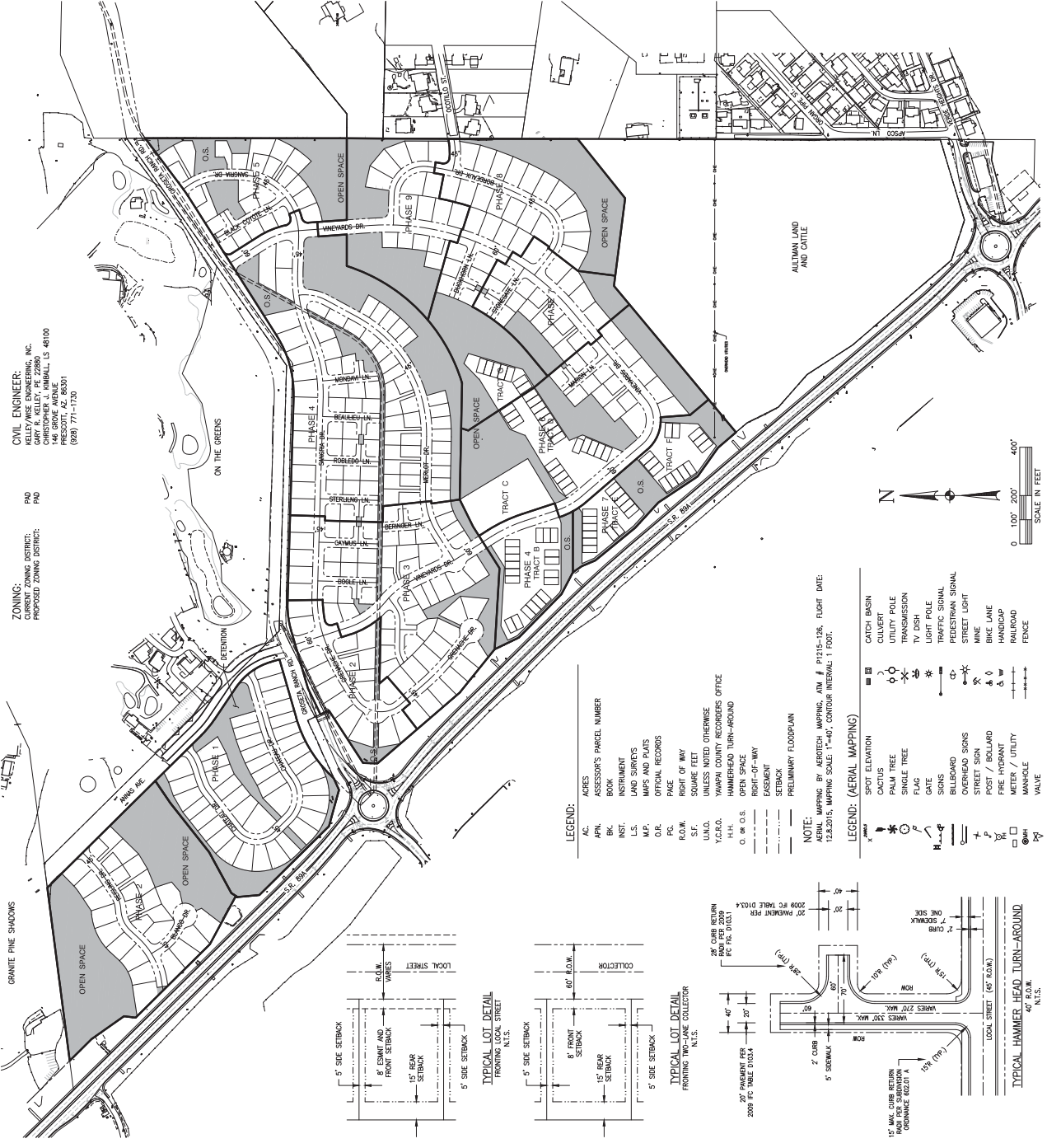
THE VINEYARDS AT COTTONWOOD
APN. 406-23-036V, 036W, 174B, 174C
AND 406-32-080P

OWNER:
VINEYARDS AT COTTONWOOD, L.L.C.
7765 WILLAMSON VALLEY ROAD
COTTONWOOD, ARIZONA 86301
(817) 602-4545

DEVELOPER:
GRANITE MOUNTAIN ASSET MANAGEMENT, L.L.C.
SWAYZE ACORN
14100 W. WILLOW
KAY, KANSAS
7765 WILLAMSON VALLEY ROAD
COTTONWOOD, ARIZONA 86301
(817) 602-4545

CIVIL ENGINEER:
KELLEY / WISE ENGINEERING, INC.
GARY & KELLEY, P.E. 22880
COTTONWOOD, ARIZONA 86301
PRESCOTT, AZ 86301
(928) 771-1720

ZONING: PUD
PROPOSED ZONING DISTRICT:
PUD



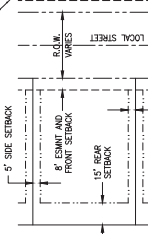
LEGEND:

- AC. ACRES
- APN. ASSESSOR'S PARCEL NUMBER
- BLK. BLOCK
- BLVD. BLVD.
- LOT. LOT
- MAP. MAP
- MP. MAPS AND PLATS
- OFF. OFFICIAL RECORDS
- PG. PAGE
- PS. RIGHT OF WAY
- S.F. SQUARE FEET
- UNL. UNLESS NOTED OTHERWISE
- Y.C.R.D. YAVAPAI COUNTY RECORDS OFFICE
- H.H. HAMMERHEAD TURN-AROUND
- O. OR O.S. OPEN SPACE
- RIGHT-OF-WAY
- SPOT ELEVATION
- SPOT ELEVATION
- PRELIMINARY FLOODPLAIN

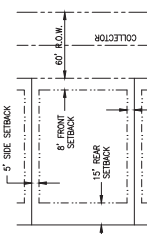
NOTE: MAPS BY AERTECH MAPPING, ATN. J. 10/15-106, FLIGHT DATE: 12/20/15, MAPPING SCALE: 1"=40', CONTOUR INTERVAL: 1 FOOT.

LEGEND: (AERIAL MAPPING)

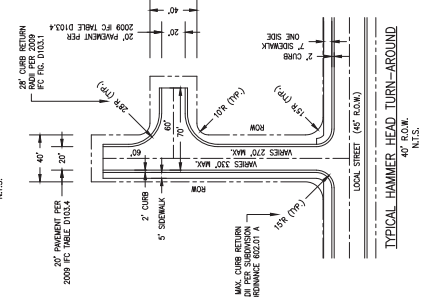
- SPOT ELEVATION
- CATCH BASIN
- CULVERT
- UTILITY POLE
- TRANSMISSION
- TV DISH
- LIGHT POLE
- TRAFFIC SIGNAL
- PEDESTRIAN SIGNAL
- STREET LIGHT
- OVERHEAD SIGN
- STREET LIGHT
- POST / BILLBOARD
- BIKE LANE
- HANDICAP
- RAILROAD
- MANHOLE
- VALVE



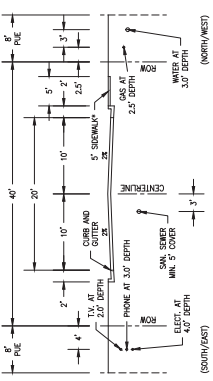
TYPICAL LOT DETAIL
FRONTING LOCAL STREET
N.T.S.



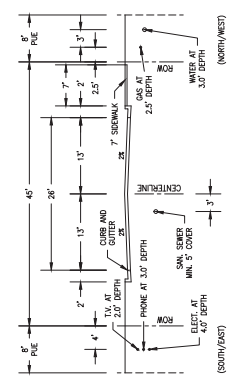
TYPICAL LOT DETAIL
FRONTING TWO-LANE COLLECTOR
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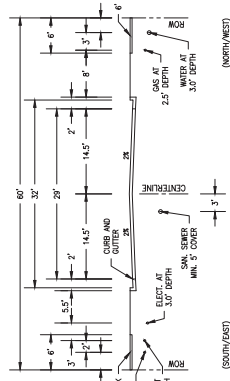
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TYPICAL LOCAL STREET SECTION
N.T.S.



TYPICAL LOCAL STREET SECTION
N.T.S.



TYPICAL TWO LANE COLLECTOR SECTION
N.T.S.



VINEYARDS AT COTTONWOOD
MASTER PHASE PLAN
KELLEY / WISE ENGINEERING, INC.
145 GREECE AVENUE
PRESCOTT, ARIZONA 86301
TEL: (928) 771-1720
FAX: (928) 771-2220

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City of Cottonwood, Arizona
City Council Agenda Communication



 [Print](#)

Meeting Date:	November 15, 2016
Subject:	Cooperative purchase of wastewater pumps, related equipment, and repair services.
Department:	City Clerk
From:	Utilities/Wastewater - Roger Biggs

REQUESTED ACTION

Approval for the cooperative use of a City of Chandler contract (through the SAVE purchasing cooperative) with Hennesy Mechanical, Inc., to purchase wastewater pumps, related equipment and repair services needed to operate the City's Wastewater system.

SUGGESTED MOTION

If the Council desires to approve this item the suggested motion is:

"I move to approve the cooperative use of the City of Chandler contract, through the SAVE purchasing cooperative, for the purchase of wastewater pumps and related equipment and services from Hennesy Mechanical, Inc."

BACKGROUND

Hennesy Mechanical Sales Inc. is the sole Arizona distributor of Fairbanks Morse and KSB municipal sewage pumps. Due to mounting, plumbing and operational considerations specific to each site, 4 of the 5 City sewage lift stations require pumps available only from Hennesy Mechanical. These sewage pump stations convey untreated waste to the Mingus Avenue treatment facility. Each station is equipped with multiple pumps ranging in size from 25 to 100 HP depending on location.

Staff seeks Council approval to utilize the SAVE cooperative group to access the City of Chandler's agreement with Hennesy which is the result of a competitive procurement process. Such action is authorized under ARS 41-2632.



JUSTIFICATION/BENEFITS/ISSUES

Hennesy Mechanical has been the pump supplier for the City's lift stations for 25 years. Each site will require 1-2 pumps replaced or repaired per year. Repairs average \$6,000 each while replacement costs may reach \$40,000 for the largest pumps. Hennesy's ability to make repairs saves the City many thousands of dollars per year by extending the operational life of each unit.

COST/FUNDING SOURCE

Wastewater Operations and Maintenance funds

ATTACHMENTS:

Name:	Description:	Type:
 3480_Signed_Approved_Agreement_-_Hennesy.pdf	Signed City of Chandler agreement	Backup Material
 11-15-16_Hennesy_Mechanical_Agreement.pdf	Cooperative Purchase Agreement	Cover Memo

18-2361

**CITY OF CHANDLER SERVICES AGREEMENT
WATER WASTEWATER EQUIPMENT REPAIR AND MAINTENANCE
AGREEMENT NO.: WA5-936-3480**

THIS AGREEMENT is made and entered into this 12 day of June, 2015, by and between the City of Chandler, a municipal corporation of the State of Arizona, hereinafter referred to as "CITY", and Hennesy Mechanical Sales, L.L.C., hereinafter referred to as "CONTRACTOR".

WHEREAS, CONTRACTOR represents that CONTRACTOR has the expertise and is qualified to perform the services described in the Agreement.

NCW THEREFORE, in consideration of the mutual promises and obligations set forth herein, the parties hereto agree as follows:

1. CONTRACT ADMINISTRATOR:

- 1.1. Contract Administrator.** CONTRACTOR shall act under the authority and approval of the Cost Center Superintendent/ designee (Contract Administrator), to provide the services required by this Agreement.
- 1.2. Key Staff.** This Contract has been awarded to CONTRACTOR based partially on the key personnel proposed to perform the services required herein. CONTRACTOR shall not change nor substitute any of these key staff for work on this Contract without prior written approval by CITY.
- 1.3. Subcontractors.** During the performance of the Agreement, CONTRACTOR may engage such additional SUBCONTRACTORS as may be required for the timely completion of this Agreement. In the event of subcontracting, the sole responsibility for fulfillment of all terms and conditions of this Agreement rests with CONTRACTOR.
- 1.4. Subcontracts.** CONTRACTOR shall not enter into any Subcontract under this Contract for the performance of this Contract without the advance written approval of CITY. The subcontract shall incorporate by reference the terms and conditions of this Contract.

2. SCOPE OF WORK: CONTRACTOR shall Water and Wastewater Equipment Repair and maintenance all as more specifically set forth in the Scope of Work, labeled Exhibit B, attached hereto and made a part hereof by reference and as set forth in the Specifications and details included therein.

- 2.1. Non-Discrimination.** The CONTRACTOR shall comply with State Executive Order No. 99-4 and all other applicable City, State and Federal laws, rules and regulations, including the Americans with Disabilities Act.
- 2.2. Licenses.** CONTRACTOR shall maintain in current status all Federal, State and local licenses and permits required for the operation of the business conducted by the CONTRACTOR as applicable to this contract.
- 2.3. Advertising, Publishing and Promotion of Contract.** The CONTRACTOR shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the CITY.
- 2.4. Compliance with Applicable Laws.** CONTRACTOR shall comply with all applicable Federal, state and local laws, and with all applicable licenses and permit requirements.

- 2.4.1 Pursuant to the provisions of A.R.S. § 41-4401, the Contractor hereby warrants to the City that the Contractor and each of its subcontractors ("Subcontractors") will comply with all Federal Immigration laws and regulations that relate to the immigration status of their employees and the requirement to use E-Verify set forth in A.R.S. §23-214(A) (hereinafter "Contractor Immigration Warranty").
- 2.4.2 A breach of the Contractor Immigration Warranty (Exhibit A) shall constitute a material breach of this Contract that is subject to penalties up to and including termination of the contract.
- 2.4.3 The City retains the legal right to inspect the papers of any Contractor or Subcontractor employee who works on this Contract to ensure that the Contractor or Subcontractor is complying with the Contractor Immigration Warranty. The Contractor agrees to assist the City in the conduct of any such inspections.
- 2.4.4 The City may, at its sole discretion, conduct random verifications of the employment records of the Contractor and any Subcontractors to ensure compliance with Contractors Immigration Warranty. The Contractor agrees to assist the City in performing any such random verification.
- 2.4.5 The provisions of this Article must be included in any contract the Contractor enters into with any and all of its subcontractors who provide services under this Contract or any subcontract. "Services" are defined as furnishing labor, time or effort in the State of Arizona by a contractor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.
- 2.4.6 In accordance with A.R.S. §35-393.06, the Contractor hereby certifies that the Offeror does not have scrutinized business operations in Iran.
- 2.4.7 In accordance with A.R.S. §35-391.06, the Contractor hereby certifies that the Offeror does not have scrutinized business operations in Sudan.
- 2.5. Warranties.**
- 2.6. One-Year Warranty.** CONTRACTOR must provide a one-year warranty on all work performed pursuant to this Contract.
- 3. ACCEPTANCE AND DOCUMENTATION:** Each task shall be reviewed and approved by the Contract Administrator to determine acceptable completion.
- 3.1. Records.** The CONTRACTOR shall retain and shall contractually require each SUBCONTRACTOR to retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract.
- 3.2. Audit.** At any time during the term of this Contract and five (5) years thereafter, the CONTRACTOR'S or any SUBCONTRACTOR'S books and records shall be subject to audit by the City to the extent that the books and records relate to the performance of the Contract or Subcontract. Upon request, the CONTRACTOR shall produce a legible copy of any or all such records.
- 3.3. New/Current Products.** All equipment, materials, parts and other components incorporated in the work or services performed pursuant to this Contract shall be new, or the latest model and of the most suitable grade for the purpose intended. All work shall be performed in a skilled and workmanlike manner.
- 3.4. Property of CITY.** Any materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of CITY. CONTRACTOR is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. CONTRACTOR shall not use or release these materials without the prior written consent of CITY.

4. PRICE:

- 4.1.** CONTRACTOR will charge hourly rates listed in Exhibit C for time spent performing services cope of work at the relevant work location. CONTRACTOR will charge partial hours spent performing services rounded up to the closest 5-minute increment of the hourly rate (1/12 of one hour rate) and shall detail time spent performing services and type of employee providing it in each monthly invoice. Parts or equipment used to perform services shall be itemized on monthly invoice and supported with CONTRACTOR'S invoice showing amount it paid. Any work on Saturdays, Sundays or holidays will require advance approval from Contract Administrator.
- 4.2. Taxes.** CONTRACTOR shall be solely legally responsible for any and all tax obligations, which may result out of CONTRACTOR'S performance of this Contract. CITY shall have no legal obligation to pay any amounts for taxes, of any type, incurred by CONTRACTOR. City agrees that Contractor may bill the City for applicable privilege license taxes which are paid for by Contractor and that the City will reimburse Contractor for privilege license taxes actually paid by Contractor. If Contractor obtains any refund of privilege license taxes paid, City will be entitled to a refund of such amounts.
- 4.3. Payment.** A separate invoice shall be issued for each shipment of material or service performed, and no payment will be issued prior to receipt of material and/or completion of specified services and receipt of a correct invoice.
- 4.4. IRS W9 Form.** In order to receive payment CONTRACTOR shall have a current I.R.S. W9 Form on file with CITY, unless not required by law.
- 4.5. Price Adjustment.** CITY may approve a fully documented request for a price increase only after the Contract has been in effect for two years. The requested increase shall be based upon a cost increase to CONTRACTOR that was clearly unpredictable at the time of the offer and is directly correlated to the price of the product concerned. CITY shall determine whether the requested price increase or an alternate option, is in the best interest of CITY. If a price increase is agreed upon a written Contract Amendment shall be approved and executed by the Parties.
- 4.6. Acceptance by City.** CITY reserves the right to accept or reject the request for a price increase. If CITY approves the price increase, the price shall remain firm for the renewal term for which it was requested. If a price increase is agreed upon a written Contract Amendment must be approved and executed by the Parties.
- 4.7. Price Reduction.** CONTRACTOR shall offer CITY a price reduction for its services concurrent with a published price reduction made to other customers.

5. TERM:

- 5.1.** The term of the Contract is two year(s), commencing on July 1, 2015 and terminating on June 30, 2017 unless sooner terminated in accordance with the provisions herein. The contract may be extended two additional terms of two years each with mutual agreement of the City and The Contractor.

6 USE OF THIS CONTRACT: The Contract is for the sole convenience of the City of Chandler. CITY reserves the rights to obtain like services from another source to secure significant cost savings or when timely completion cannot be met by CONTRACTOR.

- 6.1. Cooperative Use of Contract.** In addition to the City of Chandler and with approval of the CONTRACTOR, this Contract may be extended for use by other municipalities, school districts and government agencies of the State. A current listing of eligible entities may be found at www.maricopa.gov/materials and then click on 'Contracts', 'S.A.V.E.' listing and 'ICPA'. Any such

usage by other entities must be in accordance with the ordinance, charter and/or procurement rules and regulations of the respective political entity.

If required to provide services on a school district property at least five (5) times during a month, CONTRACTOR shall submit a full set of fingerprints to the school district in accordance with A.R.S. 15-512 of each person or employee who may provide such service. The District shall conduct a fingerprint check in accordance with A.R.S. 41-1750 and Public Law 92-544 of all CONTRACTORS, sub-CONTRACTORS or vendors and their employees for which fingerprints are submitted to the District. Additionally, the CONTRACTOR shall comply with the governing body fingerprinting policies of each individual school district/public entity. CONTRACTOR, sub-contractors, vendors and their employees shall not provide services on school district properties until authorized by the District.

Orders placed by other agencies and payment thereof will be the sole responsibility of that agency. The CITY shall not be responsible for any disputes arising out of transactions made by other agencies who utilize this Agreement.

- 6.2. Emergency Purchases:** CITY reserves the rights to purchase from other sources those items, which are required on an emergency basis and cannot be supplied immediately by the CONTRACTOR.

7. CITY'S CONTRACTUAL REMEDIES:

- 7.1. Right to Assurance.** If the City in good faith has reason to believe that the CONTRACTOR does not intend to, or is unable to perform or continue performing under this Contract, the Contract Administrator may demand in writing that the CONTRACTOR give a written assurance of intent to perform. Failure by the CONTRACTOR to provide written assurance within the number of Days specified in the demand may, at the City's option, be the basis for terminating the Contract in addition to any other rights and remedies provided by law or this Contract.
- 7.2. Stop Work Order.** The City may, at any time, by written order to the CONTRACTOR, require the CONTRACTOR to stop all or any part, of the work called for by this Contract for period(s) of days indicated by the City after the order is delivered to the CONTRACTOR. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the CONTRACTOR shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.
- 7.3.** If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the CONTRACTOR shall resume work. The Contract Administrator shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.
- 7.4. Non-exclusive Remedies.** The rights and the remedies of the City under this Contract are not exclusive.
- 7.5. Nonconforming Tender.** Services and materials supplied under this Contract shall fully comply with Contract requirements and specifications. Services or materials that do not fully comply constitute a breach of contract.
- 7.6. Right of Offset.** The City shall be entitled to offset against any sums due CONTRACTOR, any expenses or costs incurred by the City, or damages assessed by the City concerning the CONTRACTOR'S non-conforming performance or failure to perform the Contract, including expenses to complete the work and other costs and damages incurred by CITY.

8. TERMINATION:

- 8.1 Termination for Convenience:** CITY reserves the right to terminate this Agreement or any part thereof for its sole convenience with thirty (30) days written notice. In the event of such termination, CONTRACTOR shall immediately stop all work hereunder, and shall immediately cause any of its suppliers and subCONTRACTORS to cease such work. As compensation in full for services performed to the date of such termination, the CONTRACTOR shall receive a fee for the percentage of services actually performed. This fee shall be in the amount to be mutually agreed upon by the CONTRACTOR and CITY, based on the agreed Scope of Work. If there is no mutual agreement, the Management Services Director shall determine the percentage of work performed under each task detailed in the Scope of Work and the CONTRACTOR'S compensation shall be based upon such determination and CONTRACTOR'S fee schedule included herein.
- 8.2 Termination for Cause:** City may terminate this Agreement for Cause upon the occurrence of any one or more of the following events:
- 1) If CONTRACTOR fails to perform pursuant to the terms of this Agreement
 - 2) If CONTRACTOR is adjudged a bankrupt or insolvent;
 - 3) If CONTRACTOR makes a general assignment for the benefit of creditors;
 - 4) If a trustee or receiver is appointed for CONTRACTOR or for any of CONTRACTOR'S property;
 - 5) If CONTRACTOR files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or similar laws;
 - 6) If CONTRACTOR disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction;
 - 7) Where Agreement has been so terminated by CITY, the termination shall not affect any rights of CITY against CONTRACTOR then existing or which may thereafter accrue.
- 8.3. Cancellation for Conflict of Interest.** Pursuant to A.R.S. § 38-511, CITY may cancel this Contract after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the City is or becomes at any time while this Contract or an extension of this Contract is in effect, an employee of or a consultant to any other party to this Contract. The cancellation shall be effective when the CONTRACTOR receives written notice of the cancellation unless the notice specifies a later time.
- 8.4. Gratuities.** CITY may, by written notice, terminate this Contract, in whole or in part, if CITY determines that employment or a Gratuity was offered or made by CONTRACTOR or a representative of CONTRACTOR to any officer or employee of CITY for the purpose of influencing the outcome of the procurement or securing this Contract, an amendment to this Contract, or favorable treatment concerning this Contract, including the making of any determination or decision about contract performance. The CITY, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by CONTRACTOR.
- 8.5. Suspension or Debarment.** CITY may, by written notice to the CONTRACTOR, immediately terminate this Contract if CITY determines that CONTRACTOR has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a SUBCONTRACTOR of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the CONTRACTOR is not currently suspended or debarred. If CONTRACTOR becomes suspended or debarred, CONTRACTOR shall immediately notify CITY.
- 8.6. Continuation of Performance through Termination.** The CONTRACTOR shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

- 8.7. **No Waiver.** Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.
- 8.8. **Availability of Funds for the next Fiscal Year.** Funds may not presently be available under this agreement beyond the current fiscal year. No legal liability on the part of the CITY for services may arise under this agreement beyond the current fiscal year until funds are made available for performance of this agreement. The CITY may reduce services or terminate this agreement without further recourse, obligation, or penalty in the event that insufficient funds are appropriated. The City Manager shall have the sole and unfettered discretion in determining the availability of funds.
9. **FORCE MAJEURE:** Neither party shall be responsible for delays or failures in performance resulting from acts beyond their control. Such acts shall include, but not be limited to, acts of God, riots, acts of war, epidemics, governmental regulations imposed after the fact, fire, communication line failures, power failures, or earthquakes.
10. **DISPUTE RESOLUTION:**
- 10.1. **Arizona Law.** This Agreement shall be governed and interpreted according to the laws of the State of Arizona.
- 10.2. **Jurisdiction and Venue.** The parties agree that this Agreement is made in and shall be performed in Maricopa County. Any lawsuits between the Parties arising out of this Agreement shall be brought and concluded in the courts of Maricopa County in the State of Arizona, which shall have exclusive jurisdiction over such lawsuits.
- 10.3. **Fees and Costs.** Except as otherwise agreed by the parties, the prevailing party in any adjudicated dispute relating to this Agreement is entitled to an award of reasonable attorney's fees, expert witness fees and costs including, as applicable, arbitrator fees; provided, however, that no award of attorney's fees shall exceed ten percent (10%) of the damages awarded the prevailing party unless the non-prevailing party has been determined to have acted in bad faith or in a frivolous manner during the adjudication.
11. **INDEMNIFICATION:** To the fullest extent permitted by law, CONTRACTOR, its successors, assigns and guarantors, shall defend, indemnify and hold harmless City and any of its elected or appointed officials, officers, directors, commissioners, board members, agents or employees from and against any and all allegations, demands, claims, proceedings, suits, actions, damages, including, without limitation, property damage, environmental damages, personal injury and wrongful death claims, losses, expenses (including claim adjusting and handling expenses), penalties and fines (including, but not limited to, attorney fees, court costs, and the cost of appellate proceedings), judgments or obligations, which may be imposed upon or incurred by or asserted against the City by reason of this Agreement or the services performed or permissions granted under it, or related to, arising from or out of, or resulting from any negligent or intentional actions, acts, errors, mistakes or omissions caused in whole or part by CONTRACTOR, or any of its subcontractors, or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, relating to the discharge of any duties or the exercise of any rights or privileges arising from or incidental to this Agreement, including but not limited to, any injury or damages claimed by any of CONTRACTOR's and subcontractor's employees.

The amount and type of insurance coverage requirements set forth in the Agreement will in no way be construed as limiting the scope of indemnity in this paragraph.

12. **INSURANCE:**

1. General.

- A. At the same time as execution of this Agreement, the CONTRACTOR shall furnish the City of Chandler a certificate of insurance on a standard insurance industry ACORD form. The ACORD form must be issued by an insurance company authorized to transact business in the State of Arizona possessing a current A.M. Best, Inc. rating of A-7, or better and legally authorized to do business in the State of Arizona with policies and forms satisfactory to CITY. Provided, however, the A.M. Best rating requirement shall not be deemed to apply to required Workers' Compensation coverage.
- B. The CONTRACTOR and any of its subcontractors, subconsultants or sublicensees shall procure and maintain, until all of their obligations have been discharged, including any warranty periods under this Agreement are satisfied, the insurances set forth below.
- C. The insurance requirements set forth below are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement.
- D. The City in no way warrants that the minimum insurance limits contained in this Agreement are sufficient to protect CONTRACTOR from liabilities that might arise out of the performance of the Agreement services under this Agreement by CONTRACTOR, its agents, representatives, employees, subcontractors, sublicensees or subconsultants and the CONTRACTOR is free to purchase any additional insurance as may be determined necessary.
- E. Failure to demand evidence of full compliance with the insurance requirements in this Agreement or failure to identify any insurance deficiency will not relieve the CONTRACTOR from, nor will it be considered a waiver of its obligation to maintain the required insurance at all times during the performance of this Agreement.
- F. Use of SubContractors: If any work is subcontracted in any way, the CONTRACTOR shall execute a written agreement with Subcontractor containing the same Indemnification Clause and Insurance Requirements as the City requires of the CONTRACTOR in this Agreement. The CONTRACTOR is responsible for executing the Agreement with the Subcontractor and obtaining Certificates of Insurance and verifying the insurance requirements.

2. Minimum Scope and Limits of Insurance. The CONTRACTOR shall provide coverage with limits of liability not less than those stated below.

- A. *Commercial General Liability-Occurrence Form.* CONTRACTOR must maintain "occurrence" form Commercial General Liability insurance with a limit of not less than \$2,000,000 for each occurrence, \$4,000,000 aggregate. Said insurance must also include coverage for products and completed operations, independent contractors, personal injury and advertising injury. If any Excess insurance is utilized to fulfill the requirements of this paragraph, the Excess insurance must be "follow form" equal or broader in coverage scope than underlying insurance.
- B. *Automobile Liability-Any Auto or Owned, Hired and Non-Owned Vehicles*
Vehicle Liability: CONTRACTOR must maintain Business/Automobile Liability insurance with a limit of \$1,000,000 each accident on CONTRACTOR owned, hired, and non-owned vehicles assigned to or used in the performance of the CONTRACTOR's work or services under this Agreement. If any Excess or Umbrella insurance is utilized to fulfill the requirements of this paragraph, the Excess or Umbrella insurance must be "follow form" equal or broader in coverage scope than underlying insurance.

- C. *Workers Compensation and Employers Liability Insurance:* CONTRACTOR must maintain Workers Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of CONTRACTOR employees engaged in the performance of work or services under this Agreement and must also maintain Employers' Liability insurance of not less than \$1,000,000 for each accident and \$1,000,000 disease for each employee.

D. ***Installation Floater***

Coverage equal to the initial Contract Amount including labor and expenses, policy shall include the following provisions:

- a. *The CITY, CONTRACTOR, sub-contractor and any others with an insurable interest in the work shall be Insureds on the policy.*
- b. *Coverage shall be written on a Covered Cause of Loss-Special Form, replacement cost basis and shall include coverage for flood and earth movement as well as coverage for losses that may occur during equipment testing.*
- c. *Policy shall be maintained until whichever of the following shall first occur:*
 - i. *final payment has been made; or,*
 - ii. *until no person or entity, other than the CITY has an insurable interest in the property required to be covered.*
- d. *Policy shall be endorsed such that the insurance shall not be canceled or lapse because of any partial use or occupancy by the CITY.*
- e. *The Installation Floater must provide coverage from the time the equipment/material becomes the responsibility of the CONTRACTOR and shall continue without interruption during the installation, including any time during which the equipment/material is being transported to the installation site, or awaiting installation, whether on or off site.*
- f. *CONTRACTOR is responsible for the payment of all deductibles under the Installation Floater policy waives all rights of recovery and subrogation against the City under the CONTRACTOR-provided Installation Floater coverage.*

3. **Additional Policy Provisions Required.**

- A. *Self-Insured Retentions Or Deductibles.* Any self-insured retentions and deductibles must be declared and approved by the City. If not approved, the City may require that the insurer reduce or eliminate any deductible or self-insured retentions with respect to the City, its officers, officials, agents, employees, and volunteers.
- B. *City as Additional Insured.* The policies are to contain, or be endorsed to contain, the following provisions:
1. The Commercial General Liability, Installation Floater, and Automobile Liability policies are to contain, or be endorsed to contain, the following provisions: The City, its officers, officials, agents, and employees are additional insureds with respect to liability arising out of activities performed by, or on behalf of, the CONTRACTOR including the City's general supervision of the CONTRACTOR; Products and Completed operations of the CONTRACTOR; and automobiles owned, leased, hired, or borrowed by the CONTRACTOR.
 2. The CONTRACTOR's insurance must contain broad form contractual liability coverage and must not exclude liability arising out of explosion, collapse, or underground property damage hazards ("XCU") coverage.
 3. The City, its officers, officials, agents, and employees must be additional insureds to the full limits of liability purchased by the CONTRACTOR even if those limits of liability are in excess of those required by this Agreement.

4. The CONTRACTOR's insurance coverage must be primary insurance with respect to the City, its officers, officials, agents, and employees. Any insurance or self-insurance maintained by the City, its officers, officials, agents, and employees shall be in excess of the coverage provided by the CONTRACTOR and must not contribute to it.
5. The CONTRACTOR's insurance must apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
6. Coverage provided by the CONTRACTOR must not be limited to the liability assumed under the indemnification provisions of this Agreement.
7. The policies must contain a severability of interest clause and waiver of subrogation against the City, its officers, officials, agents, and employees, for losses arising from Work performed by the CONTRACTOR for the City.
8. The CONTRACTOR, its successors and or assigns, are required to maintain Commercial General Liability insurance as specified in this Agreement for a minimum period of 3 years following completion and acceptance of the Work. The CONTRACTOR must submit a Certificate of Insurance evidencing Commercial General Liability insurance during this 3 year period containing all the Agreement insurance requirements, including naming the City of Chandler, its agents, representatives, officers, directors, officials and employees as Additional Insured as required.
9. If a Certificate of Insurance is submitted as verification of coverage, the City will reasonably rely upon the Certificate of Insurance as evidence of coverage but this acceptance and reliance will not waive or alter in any way the insurance requirements or obligations of this Agreement. If any of the required policies expire during the life of this Agreement, the CONTRACTOR must forward renewal or replacement Certificates to the City within 10 days after the renewal date containing all the necessary insurance provisions.
13. **NOTICES:** All notices or demands required to be given pursuant to the terms of this Agreement shall be given to the other party in writing, delivered by hand or registered or certified mail, at the addresses set forth below, or to such other address as the parties may substitute by written notice given in the manner prescribed in this paragraph.

In the case of the CITY

Contract Administrator: Procurement Officer

Contact:	<u>Mike Mandt</u>
Mailing Address:	<u>PO Box 4008</u>
Physical Address:	<u>175 S Arizona Avenue</u>
City, State, Zip	<u>Chandler, AZ 85244-4008</u>
Phone:	<u>480-782-2406</u>

In the case of the CONTRACTOR

Firm Name: Hennesy Mechanical Sales, LLC.

Contact:	<u>Jeff Pals</u>
Address:	<u>201 S 26th Street</u>
City, State, Zip	<u>Phoenix, AZ 85034</u>
Phone:	<u>602-996-3044</u>
	<u>jeff@hennesymech.com</u>

Notices shall be deemed received on date delivered, if delivered by hand, and on the delivery date indicated on receipt if delivered by certified or registered mail.

14. CONFLICT OF INTEREST:

- 14.1. **No Kickback.** CONTRACTOR warrants that no person has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee; and that no member of the City Council or any employee of the CITY has any interest, financially or otherwise, in the firm unless this interest has been declared pursuant to the provisions of A.R.S. Section 38-501. Any such interests were disclosed in CONTRACTOR'S proposal to the CITY.

- 14.2. Kickback Termination.** CITY may cancel any contract or agreement, without penalty or obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the agreement on behalf of the CITY is, at any time while the Agreement or any extension of the Agreement is in effect, an employee of any other party to the Agreement in any capacity or a CONTRACTOR to any other party to the Agreement with respect to the subject matter of the Agreement. The cancellation shall be effective when written notice from CITY is received by all other parties, unless the notice specifies a later time (A.R.S. §38-511).
- 14.3 No Conflict:** CONTRACTOR stipulates that its officers and employees do not now have a conflict of interest and it further agrees for itself, its officers and its employees that it will not contract for or accept employment for the performance of any work or services with any individual business, corporation or government unit that would create a conflict of interest in the performance of its obligations pursuant to this project.
- 15. GENERAL TERMS:**
- 15.1. Ownership.** All deliverables and/or other products of the Contract (including but not limited to all software documentation, reports, records, summaries and other matter and materials prepared or developed by CONTRACTOR in performance of the Contract) shall be the sole, absolute and exclusive property of CITY, free from any claim or retention of right on the part of CONTRACTOR, its agents, sub-contractors, officers or employees.
- 15.2. Entire Agreement.** This Agreement, including all Exhibits attached hereto, constitutes the entire understanding of the parties and supersedes all previous representations, written or oral, with respect to the services specified herein. This Agreement may not be modified or amended except by a written document, signed by authorized representatives or each party.
- 15.3. Arizona Law.** This Agreement shall be governed and interpreted according to the laws of the State of Arizona.
- 15.4. Assignment:** Services covered by this Agreement shall not be assigned in whole or in part without the prior written consent of the CITY.
- 15.5. Amendments.** The Contract may be modified only through a written Contract Amendment executed by authorized persons for both parties. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the City in writing or made unilaterally by the CONTRACTOR are violations of the Contract. Any such changes, including unauthorized written Contract Amendments shall be void and without effect, and the CONTRACTOR shall not be entitled to any claim under this Contract based on such changes.
- 15.6. Independent CONTRACTOR.** The CONTRACTOR under this Contract is an independent CONTRACTOR. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.
- 15.7. No Parole Evidence.** This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.

15.8. **Authority:** Each party hereby warrants and represents that it has full power and authority to enter into and perform this Agreement, and that the person signing on behalf of each has been properly authorized and empowered to enter this Agreement. Each party further acknowledges that it has read this Agreement, understands it, and agrees to be bound by it.

IN WITNESS WHEREOF, the parties have hereunto subscribed their names to this 12
day of June, 2015.

FOR THE CITY OF CHANDLER

Jay Libshraeny
Mayor

APPROVED AS TO FORM:

Cynthia Haglin
City Attorney

ATTEST:

Maile Padash
City Clerk

FOR THE CONTRACTOR

By: [Signature]
Signature

ATTEST: If Corporation

Secretary

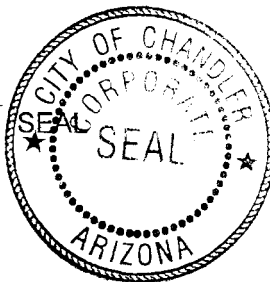


EXHIBIT A

Contractor Immigration Warranty To Be Completed by Contractor Prior to Execution of Contract

A.R.S. § 41-4401 requires as a condition of your contract verification of compliance by the contractor and subcontractors with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of its employees.

By completing and signing this form the contractor shall attest that it and all subcontractors performing work under the cited contract meet all conditions contained herein.

Contract Number:		
Name (as listed in the contract):		
Street Name and Number:		
City:	State:	Zip Code:

I hereby attest that:

1. The contractor complies with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of those employees performing work under this contract;
2. All subcontractors performing work under this contract comply with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of their employees.

Signature of Contractor (Employer) or Authorized Designee:



Printed Name: E. P. Hennessey SR.

Title: President

Date (month/day/year): 5/18/15

Exhibit B
Scope of Work

1. **SCOPE**

The purpose of this contract is to provide equipment repair for various City departments, which currently include Water Production, Wastewater Treatment, Wastewater Collection, Reverse Osmosis, Solid Waste and Streets. The contract is separated into six categories as indicated below.

1.1 **Water Treatment and Booster Facilities Pump and Process Equipment Sales and Maintenance.**

This work will take place at the City's Pecos Water Treatment Facility and reservoir / booster stations at various locations throughout the City. This category will include work on all types of pumps, valves and process equipment common to water treatment and booster station facilities.

1.2 **Wastewater Treatment and Lift Station Pump and Process Equipment Sales and Maintenance.**

This work will take place at the City's Airport Water Reclamation Facility, Lone Butte Wastewater Facility, Ocotillo Water Reclamation Facility, Lift Stations and Wastewater Facilities at various locations throughout the City. This category will include work on all types of pumps, valves and process equipment common to wastewater treatment and lift station facilities.

1.3 **Potable Well, Aquifer Storage and Recovery Well (ASR), Monitor Well, and Leachate recovery well pump and Equipment Sales and Maintenance.**

This work will take place at various well locations throughout the City. This category will include work on both Line shaft and Submersible type well pump systems, well maintenance, rehabilitation and repair, as well as work on all types of pumps, valves and process equipment common to potable, ASR and monitor well and leachate recovery facilities. **(Not included in this agreement)**

1.4 **Chandler Reverse Osmosis Plant Pumps and Process Equipment Sales and Maintenance.**

This work will take place at the City's Reverse Osmosis Facility. This category will include work on all types of pumps, valves and process equipment common to Industrial reverse osmosis water treatment facilities.

1.5 **Other City Facilities**

This work will take place at the City's other facilities such as City owned buildings, parks, pools, and street storm water facilities. This category will include work on all types of pumps, motors and equipment common to these facilities.

1.6 **OEM Parts and Service**

This work will take place at any of the city Facilities. This category is for work to be performed by the authorized manufacturer's representative for the OEM products listed in Section 4 of the price page.

2. **RESPONSE TIME**

2.1. **Water Treatment and Booster Facilities Pump and Process Equipment Sales and Maintenance.**

CONTRACTOR shall commence work within 5-calendar days of notification from CITY for all non-emergency calls.

CONTRACTOR shall commence work within 4 days of notification from CITY for all emergency calls.

CONTRACTOR shall commence work on warranty repairs within the same time frame specified for non-emergency and emergency calls.

- 2.2. Wastewater Treatment and Lift Station Pump and Process Equipment Sales and Maintenance.
CONTRACTOR shall commence work within 5 days of notification from CITY for all non-emergency calls.

CONTRACTOR shall commence work within 24 hours of notification from CITY for all emergency calls.

CONTRACTOR shall commence work on warranty repairs within the same time frame specified for non-emergency and emergency calls.

- 2.3. Potable Well, Aquifer Storage and Recovery Well (ASR), Monitor Well, and Leachate recovery well pump and Equipment Sales and Maintenance.

CONTRACTOR shall commence work within 10 days of notification from CITY for all non-emergency calls.

CONTRACTOR shall commence work within 24 hours of notification from CITY for all emergency calls.

CONTRACTOR shall commence work on warranty repairs within the same time frame specified for non-emergency and emergency calls.

- 2.4. Chandler Reverse Osmosis Plant Pumps and Process Equipment Sales and Maintenance.

CONTRACTOR shall commence work within 5-calendar days of notification from CITY for all non-emergency calls.

CONTRACTOR shall commence work within 4 days of notification from CITY for all emergency calls.

CONTRACTOR shall commence work on warranty repairs within the same time frame specified for non-emergency and emergency calls.

- 2.5. Other City Facilities

CONTRACTOR shall commence work within 5-calendar days of notification from CITY for all non-emergency calls.

CONTRACTOR shall commence work within 4 days of notification from CITY for all emergency calls.

CONTRACTOR shall commence work on warranty repairs within the same time frame specified for non-emergency and emergency calls.

- 2.6. OEM Parts and Service

CONTRACTOR shall commence work within 5-calendar days of notification from CITY for all non-emergency calls.

CONTRACTOR shall commence work within 4 days of notification from CITY for all emergency calls.

CONTRACTOR shall commence work on warranty repairs within the same time frame specified for non-emergency and emergency calls.

3. WORK ESTIMATES AND COMPLETION TIME

Prior to CONTRACTOR performing any repair work, CONTRACTOR will be required to provide CITY a written report including condition of equipment, recommended repairs and cost of repairs. CONTRACTOR will be allowed to remove and disassemble the equipment prior to providing CITY written estimate. The written estimate will be required 72 hours after equipment has been removed.

CONTRACTOR will be required to repair and reinstall equipment within 10 working days from approval of the work. This requirement will be adjusted if parts delivery exceeds 10 days.

4. REPLACEMENT PARTS

CITY may purchase replacement pumps, motors, and other related equipment from CONTRACTOR. The price to be paid to CONTRACTOR by CITY will be billed at the invoice price multiplied by the factor listed on Exhibit C. The factor listed will be CONTRACTOR's compensation for handling. CONTRACTOR shall include invoices for any parts for which he is seeking reimbursement. All replacement parts supplied must meet all manufacturers' specifications.

CONTRACTOR may be required to provide pricing of repair parts for specific jobs prior to CITY authorizing purchase of the parts from CONTRACTOR. CITY reserves the right to purchase pumps, motors, and other related equipment directly from the manufacturer or from other vendors if it is in CITY's best interest.

5. SUPERVISION BY THE CONTRACTOR

CONTRACTOR will supervise and direct all work. CONTRACTOR shall be solely responsible for the means, methods, techniques, sequences and procedures performed. CONTRACTOR will employ and maintain on the work a qualified supervisor or superintendent, which shall be designated in writing by CONTRACTOR as CONTRACTOR's representative at the site. The supervisor shall have full authority to act on behalf of CONTRACTOR and all communications given to the supervisor shall be as binding as of given to CONTRACTOR. The supervisor shall be present on the site at all times as required to perform adequate supervision and coordination of the work.

6. INSPECTION

CITY Staff may monitor the work site and report to the Contract Administrator as to the progress of the Work, the manner in which it is being performed, and if material furnished and work performed by CONTRACTOR fails to fulfill the requirements of the Contract. CITY Staff may direct the attention of CONTRACTOR to such failure or infringement but such inspection shall not relieve CONTRACTOR from any obligation to furnish acceptable materials or to provide completed work that complies with the Contract.

In the case of any dispute arising between CITY staff and the CONTRACTOR as to material furnished or the manner of performing work, CITY Staff shall have the authority to reject materials or suspend the work until the question and issue can be resolved

7. VIBRATION ANALYSIS

Repairs performed under this contract will be subject to vibration analysis and must comply with manufacturers' specifications.

8. SAFETY PROCEDURES

CONTRACTOR will be responsible for coordinating their activities with CITY. Prior to the start of work, CONTRACTOR and CITY will perform a Pre-job briefing to discuss and plan for dealing with relevant safety issues such as lockout tag-out and confined space exposures. CONTRACTOR will be responsible to properly lockout tag-out electrical hazards and ensure there is a plan to deal with other work related hazards.

9. DISINFECTION
CONTRACTOR will be responsible for disinfection of all potable water equipment with NSF approved products prior to and during installation in accordance with Maricopa County Health Code, Chapter V, Water Supply R9-8-266.
10. CLEANUP
CONTRACTOR shall remove all debris and other materials from the work site after the completion of work.
11. PROTECTION OF FINISHED OR PARTIALLY FINISHED WORK
CONTRACTOR shall properly secure the work site and protect all finished or partially finished work.
12. DISPOSAL OF WASTE
CONTRACTOR will be responsible for disposal of all waste products including but not limited to oil baled from a well, debris, etc. at a legal off-site location. ANY DISPOSAL OF WASTE PRODUCTS OR UNUSED MATERIALS SHALL CONFORM TO APPLICABLE FEDERAL, STATE, AND LOCAL REGULATIONS. Copies of disposal documentation shall be provided to CITY upon request.
13. WRITTEN COMPLETION REPORTS
CONTRACTOR shall submit a written completion report to CITY within 30 days of completion of work, which details work completed. The report for pump repair shall include depth of setting, bowl size and make, tube and shaft size and make, depth of well water level and other pertinent information. **The report shall include a daily log that accounts for all hours and materials billed to the job.** CITY will not make payment prior to receiving this report.

Exhibit C

Work Categories		Included in agreement
1. Water Treatment and Booster Facilities Pump and Process Equipment Sales and Maintenance.		Yes
2. Wastewater Facilities and Lift Station Pump and Process Equipment Sales and Maintenance.		Yes
3. Potable Well, Injection Well, Aquifer Storage and Recovery Well (ASR), Monitor Well, and Leachate recovery well pump and Equipment Sales and Maintenance.		No
4. Chandler Reverse Osmosis Plant Pumps and Process Equipment Sales and Maintenance.		Yes
5. Other City Facilities		Yes
6. OEM parts and service provider		Yes
Labor	UM	
Laborer - Field	\$/Hour	\$ 26.00
Laborer - Shop	\$/Hour	\$ 26.00
Machinist - Field	\$/Hour	\$ 65.00
Machinist - Shop	\$/Hour	\$ 43.50
Mechanic - Field	\$/Hour	\$ 43.50
Mechanic - Shop	\$/Hour	\$ 43.50
Welder - Field	\$/Hour	\$ 43.50
Welder - Shop	\$/Hour	\$ 43.50
Operator - Field	\$/Hour	\$ 43.50
Supervisor - Field	\$/Hour	\$ 43.50
Technician - Field	\$/Hour	\$ 43.50
Multiplier for Overtime, Weekend and Holiday Work	Multiplier	\$ 1.50
Multiplier for Confined Space work	Multiplier	133%
One time Set Up charge for confined space (price per job including equipment and labor for set up of confined Space)	Each	\$ 418.00
Equipment		

Type 1 equipment	UM	
Pickup Truck	\$/Hour	\$ 53.40
Crane Truck	\$/Hour	\$ 65.00
Pump Service Truck	\$/Hour	\$ 65.00
Tractor Trailer & Driver	\$/Hour	\$ 50.00
Portable Welding Machine	\$/Hour	\$ 38.00
Concrete Pump	\$/Hour	
Type 2 equipment	NA	
Non OEM Parts and Equipment	%	
Parts Mark-up for items with an invoiced cost of less than \$9,999 / ea	%	25%
Parts Mark-up for items with an invoiced cost of greater than \$10,000 / ea	%	20%
Subcontractor Mark-Up	%	25%
Rental Equipment Mark-Up	%	25%
OEM Parts and Equipment		
-	% Discount From List	% Discount From List
<u>Pumps:</u>		
Fairbanks Morse Pumps		Cost + 30%
Wemco		Cost + 30%
<u>Motors:</u>		
U.S.		Cost + 30%
<u>Chemical Metering Pumps:</u>		
Moyno		Cost + 30%
<u>Mixers:</u>		
Philadelphia Mixers		Cost + 30%
<u>Water Filters:</u>		
Tekleen		Cost + 30%

COOPERATIVE PURCHASE AGREEMENT

THIS AGREEMENT (The "Agreement") is made and entered into effective as of November 15th, 2016 (the "Effective Date"), by and between the City of Cottonwood, Arizona, an Arizona municipal corporation ("City"), and Hennesy Mechanical, Inc. ("Vendor"). The City and the Vendor are sometimes referred to in this Agreement collectively as the "Parties" and each individually as a "Party."

RECITALS:

The Parties wish to enter into an Agreement pursuant to the terms and conditions of that outside contract for the purchase of water system products and all subsequent revisions, between The City of Chandler Cooperative Agreement and the Vendor (the "Original Contract.") Such action is authorized under A.R.S. §41-2632. All capitalized terms used without definition in this Agreement shall have the definitions ascribed to them in the Original Contract.

AGREEMENTS:

NOW, THEREFORE, for and in consideration of the foregoing Recitals and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree to the terms of the Original Contract as follows:

1. Reaffirmation of Original Contract. The Original Contract shall remain in full force and effect, and all terms and conditions of the Original Contract are hereby incorporated by reference into this Agreement, creating an agreement identical in terms between the City and the Vendor. In the event of any conflict between this Agreement and the Original Contract, the terms of this Agreement shall prevail. In the Original Contract, the terms "City of Chandler" shall be deemed to be and refer to the City, and the term "Vendor" shall be deemed to be and refer to Hennesy Mechanical, Inc. under this Agreement. The amount paid under this Agreement shall be an amount as per the rates as set forth in agreement number WA5-936-3480 facilitated by The City of Chandler.

2. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, binding on all of the Parties. The Parties agree that this Agreement may be transmitted between them via facsimile. The Parties intend that the faxed signatures constitute original signatures and that a faxed agreement containing the signatures (original or faxed) of all the Parties is binding upon the Parties.

3. Compliance with Federal and State Laws.

3.1 The Vendor understands and acknowledges the applicability to it of the American with Disabilities Act, the Immigration Reform and Control Act of 1986 and the Drug Free Workplace Act of 1989. The Vendor understands and acknowledges that it must also comply with A.R.S. § 34-301, "Employment of Aliens on Public Works Prohibited", and A.R.S. § 34-302, as amended, "Residence Requirements for Employees."

3.2 Pursuant to the provisions of A.R.S. §41-4401, the Vendor warrants to the City that the Vendor and all its subcontractors are in compliance with all Federal Immigration laws and regulations that relate to their employees and with the E-Verify Program under A.R.S. §23-214(A).

A breach of this warranty by the Vendor or any of its subcontractors will be deemed a material breach of this Contract and may subject the Vendor or subcontractor to penalties up to and including termination of this Contract or any subcontract.

The City retains the legal right to inspect the papers of any employee of the Vendor or any subcontractor who works on this Contract to ensure that the Vendor or any subcontractor is complying with the warranty given above.

The City may conduct random verification of the employment records of the Vendor and any of its subcontractors to ensure compliance with this warranty.

The City will not consider the Vendor or any of its subcontractors in material breach of this Contract if the Vendor and its subcontractors establish that they have complied with the employment verification provisions prescribed by 8 USCA §1324(a) and (b) of the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by A.R.S. §23-214(A). The "E-Verify Program" means the employment verification pilot program as jointly administered by the United States Department of Homeland Security and the Social Security Administration or any of its successor programs.

The provisions of this Article must be included in any contract the Vendor enters into with any and all of its subcontractors who provide services under this Contract or any subcontract. "Services" are defined as furnishing labor, time or effort in the State of Arizona by a Vendor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.

3.3 This Agreement is subject to cancellation for conflicts of interest pursuant to A.R.S. § 38-511.

4. The City may terminate this Agreement at any time for its convenience by written notice to Hennesy Mechanical, Inc. specifying the termination date. In the event of termination which is not the fault, in whole or in part, of the Hennesy Mechanical, Inc., City shall pay to Vendor only such compensation, including reimbursable expenses, due for Work properly performed on the Project prior to the termination date. Upon any termination of the Agreement, no further payments shall be due from City to Hennesy Mechanical, Inc. unless and until Hennesy Mechanical, Inc. has delivered to City any and all documentation required to be maintained by Hennesy Mechanical, Inc. or provided by Hennesy Mechanical, Inc. to City.

5. All warranties, representations and indemnifications by Hennesy Mechanical, Inc. shall survive the completion or termination of this Agreement.

6. The Vendor shall provide the products for sale at the prices as specified in agreement #CON-16-3378A facilitated by The City of Chandler attached hereto and incorporated herein. Unless expressly excluded, in writing, in the Agreement, the Services shall include any and all services reasonably contemplated, normally included, and necessary to complete the Services set forth in a good and workmanlike manner with due diligence and, at a minimum, in conformance with generally accepted industry standards and standard of care for like professionals in the same geographic area.

THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the Effective Date set forth above.

City of Cottonwood, an Arizona municipal corporation

Date: _____

By: _____
Mayor Diane Joens

Attest: _____
City Clerk Marianne Jiménez

Approved as to form:

By: _____
Steve Horton
City Attorney

Hennesy Mechanical, Inc.

Date: _____

By: _____

Its: _____

City of Cottonwood, Arizona
City Council Agenda Communication



 [Print](#)

Meeting Date:	November 15, 2016
Subject:	Resolution 2857 - Approving a Lease Purchase Financing Agreement with Signature Public Funding Corp.
Department:	Administrative Services
From:	Jeff Cook, Procurement & Contract Administrator via Rudy Rodriguez, Administrative Services General Manager

REQUESTED ACTION

Approval of Resolution 2857 - Authorizing a Lease Purchase Financing Agreement with Signature Public Funding Corp.

SUGGESTED MOTION

If the Council desires to approve this item the suggested motion is:

“I move to approve Resolution Number 2857, awarding the contract for Capital Equipment Financing Services to Signature Public Funding Corporation, and to authorize the Administrative Services General Manager to complete the transaction.”

BACKGROUND

The City of Cottonwood issued a solicitation for capital equipment financing services on September 26th, 2017. The solicitation was published in the newspaper in consecutive weeks and was posted on the City website and Public Purchase. Five (5) completed proposals and one statement of “no-bid” were received by the deadline of October 12th, 2016. One additional proposal was received late, and was not opened.

The intent of this solicitation was to enter into an agreement for financing to purchase Capital Equipment for the City of Cottonwood.

The proposals were reviewed by the Purchasing Agent, Budget/Accounting Manager and Administrative Services General Manager. Signature Public Funding Corporation offered the lowest fixed interest rate of 1.595% over the five year lease term, and therefore was the most advantageous proposer.

JUSTIFICATION/BENEFITS/ISSUES

Approval of the attached resolution and related documents will allow the City to proceed with this

advantageous financing opportunity for the purchase of police vehicles; a rescue vehicle; other related rescue equipment; a street sweeper; and new cardio equipment for the recreation center.

COST/FUNDING SOURCE

<u>ATTACHMENTS:</u>		
Name:	Description:	Type:
<input type="checkbox"/> Res2857.docx	Resolution Number 2857	Cover Memo
<input type="checkbox"/> City_of_Cottonwood_Master_Lease.pdf	Master Lease Agreement	Backup Material
<input type="checkbox"/> Escrow_Deposit_Agreement_-_Signature_Bank_Form.pdf	Escrow Agreement	Backup Material

RESOLUTION NUMBER 2857

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, AUTHORIZING THE INCURRING OF LEASE OBLIGATIONS IN AN AMOUNT NOT TO EXCEED \$1,194,732.00 TO BE EVIDENCED BY THE EXECUTION AND DELIVERY OF A MASTER EQUIPMENT LEASE-PURCHASE AGREEMENT, AN ESCROW AGREEMENT AND AN EQUIPMENT SCHEDULE WITH RESPECT TO THE ACQUISITION, PURCHASE, FINANCING, AND LEASING OF CERTAIN EQUIPMENT FOR THE PUBLIC BENEFIT; AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS REQUIRED IN CONNECTION THEREWITH; AND AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED BY THIS RESOLUTION.

Whereas, the City of Cottonwood (the "*Lessee*"), a body politic and corporate duly organized and existing as a political subdivision of the State of Arizona, is authorized by the laws of the State of Arizona to purchase, acquire, and lease personal property for the benefit of the Lessee and those it provides services to and to enter into contracts with respect thereto; and

Whereas, the Lessee desires to purchase, acquire and lease certain equipment constituting personal property necessary for the Lessee to perform essential governmental functions; including without limitation various Police and Rescue vehicles and other equipment Lessee or its Designated Officers may deem necessary and/or desirable (the "*Equipment*") in an amount not more than \$1,194,732.00, and the Lessee hereby finds and determines that the realistic estimated useful life of the Equipment is at least Five years; and

Whereas, in order to acquire such Equipment, the Lessee proposes to enter into a Master Equipment Lease Purchase Agreement dated as of [Date] (together with the Equipment Schedule dated as of November 30, 2016 and all related exhibits, schedules, and certificates attached thereto, the "*Lease Agreement*") with Signature Public Funding Corp. (the "*Lessor*") and one Escrow Agreement (together the Disbursement Request Form and Acceptance Certificate, the "*Escrow Agreement*", and together with the Lease Agreement, the "*Transaction Documents*") with the Lessor and Signature Bank, as escrow agent, the forms of which have been presented to the Governing Body of the Lessee at this meeting; and

RESOLUTION NUMBER 2857

Page 2

Whereas, the Governing Body of the Lessee deems it for the benefit of the Lessee and for the efficient and effective administration thereof to enter into the Transaction Documents for the purchase, acquisition, and leasing of the Equipment to be therein described on the terms and conditions therein provided.

Now, Therefore, Be It Resolved and Enacted by the Governing Body of the City of Cottonwood as follows:

Section 1. Approval of Documents. The Governing Body of the Lessee hereby approves the form, terms and provisions of the Transaction Documents in substantially the forms presented to this meeting and authorizes and directs Rudy Rodriguez, the Administrative Services General Manager and Doug Bartosh, the City Manager, of the City of Cottonwood, and such other persons as he/she/they may delegate (the "*Designated Officers*"), and each of them individually, for and in the name of and on behalf of the Lessee, to execute, attested, seal, and deliver the Transaction Documents, and any related Certificate, Exhibits, or other documents attached thereto substantially in such forms as presented herewith, together with such changes, modification, negotiations, insertions, revisions, corrections, or amendments as shall be approved by the officer executing them. The execution of the foregoing by a Designated Officer shall constitute conclusive evidence of such officer's and the Governing Body's approval of any such changes, insertions, revisions, corrections, negotiations, or amendments to the respective forms of agreements presented to this meeting.

Section 2. Other Actions Authorized. The officers and employees of the Lessee shall take all action necessary or reasonably required by the parties to the Transaction Documents to carry out, give effect to, and consummate the transactions contemplated thereby (including the execution and delivery of Certificates of Acceptance and Disbursement/Payment Requests, Notice and Acknowledgements of Assignments, and any tax certificate and agreement, each with respect to and as contemplated in the Agreement and/or Escrow Agreement) and to take all action necessary in conformity therewith, including, without limitation, the execution and delivery of any closing and other documents required to be delivered in connection with the Transaction Documents. The Designated Officers and all other officers and employees of the Lessee are hereby directed and authorized to take and shall take all action necessary or reasonably required in order to select, purchase, and take delivery of the Equipment. All actions heretofore taken by officers, employees, and agents of the Lessee that are in conformity with the purposes and intent of this resolution are hereby approved, confirmed, and ratified.

Section 3. No General Liability. Nothing contained in this Resolution No. 2857, the Transaction Documents, nor any other instrument shall be construed with respect to the Lessee as incurring a pecuniary liability or charge upon the general credit of the Lessee or against its taxing power, nor shall the breach of any agreement

RESOLUTION NUMBER 2857

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contained in this Resolution No. 2857, the Transaction Documents, or any other instrument or document executed in connection therewith impose any pecuniary liability upon the Lessee or any charge upon its general credit or against its taxing power, payable from the general and current revenues of the Lessee/except to the extent that the rental payments payable under the Transaction Documents are special limited obligations of the Lessee as provided therein.

Section 4. Appointment of Authorized Lessee Representatives. The Designated Officers are each hereby designated to act as authorized representatives of the Lessee for purposes of the Transaction Documents until such time as the Governing Body of the Lessee shall designate any other or different authorized representative for purposes of the Transaction Documents.

Section 5. Severability. If any section, paragraph, clause, or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Resolution No. 2857.

Section 6. Repealer. All bylaws, orders, and resolutions or parts thereof, inconsistent herewith, are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed as reviving any bylaw, order, resolution, or ordinance or part thereof.

Section 7. Reserved.

Section 8. Effective Date. This Resolution Number 2857 shall be effective immediately upon its approval and adoption.

PASSED AND ADOPTED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, THIS 15TH DAY OF NOVEMBER 2016.

Diane Joens, Mayor

ATTEST:

Marianne Jiménez, City Clerk

APPROVED AS TO FORM:

Steven B. Horton, Esq.
City Attorney

INDEX TO LEGAL DOCUMENTS
NON-BANK-QUALIFIED, APPROPRIATION-BASED
TAX-EXEMPT MASTER EQUIPMENT LEASE-PURCHASE AGREEMENT
DATED NOVEMEBR 30, 2016 BY AND BETWEEN
SIGNATURE PUBLIC FUNDING CORP.
And
CITY OF COTTONWOOD

Lease Documents:

Tab 1:	Master Equipment Lease-Purchase Agreement;
Tab 2:	Exhibit A - Equipment Schedule;
Tab 3:	Exhibit B - Acceptance Certificate;
Tab 4:	Exhibit C-1 - Insurance Coverage Request;
Tab 5:	Exhibit C-2 - Self-Insurance Rider (if applicable); Exhibit C-3 - Questionnaire for Self Insurance (If applicable);
Tab 6:	Exhibit D - Essential Use Certificate;
Tab 7:	Exhibit E - Incumbency Certificate;
Tab 8:	Exhibit F - Form of Opinion of Lessee's Counsel;
Tab 9:	Exhibit G – Reserved;
Tab 10:	Exhibit H - Tax Certificate;
Tab 11:	Exhibit I - Escrow Agreement
Tab 12:	Exhibit J: - Form of Sample Resolution of Lessee;
Tab 13:	UCC-1 - Financing Statement with attached Schedule A;
Tab 14:	Form 8038-G;
Tab 15:	Closing Memorandum/Payment Proceeds Direction; and
Tab 16:	Vendor Invoices, MSOs and Title Applications



**SIGNATURE
PUBLIC FUNDING**

SIGNATURE PUBLIC FUNDING CORP.

MASTER LEASE AGREEMENT NO. _____

This **MASTER LEASE AGREEMENT** (the "Agreement"), dated as of November 30, 2016 is made and entered into by and between **SIGNATURE PUBLIC FUNDING CORP.**, a New York corporation, as lessor (the "Lessor"), and **City of Cottonwood**, a body corporate and politic of the State of Arizona, which is a political subdivision as defined under the Code, as lessee ("Lessee").

In consideration of the mutual covenants herein contained, the parties hereto agree as follows:

ARTICLE I. DEFINITIONS AND EXHIBITS

Section 1.1. Definitions. The following terms have the meanings specified below.

"Acceptance Certificate" means each Acceptance Certificate delivered by Lessee as part of an Equipment Schedule certifying as to the delivery, installation and acceptance of Equipment.

"Agreement" means this Master Lease Agreement and all Equipment Schedules hereto.

"Agreement Date" means the date first written above.

"Code" means the Internal Revenue Code of 1986, as amended, together with Treasury Regulations promulgated from time to time thereunder.

"Default Rate" means the lesser of 12% per annum, or the maximum rate permitted by law.

"Equipment" means all items of property described in Equipment Schedules and subject to this Agreement.

"Equipment Group" means each group of Equipment listed in a single Equipment Schedule.

"Equipment Schedule" means each sequentially numbered schedule executed by Lessor and Lessee with respect to Equipment Group.

"Escrow Account" means the equipment acquisition account, if any, established by Lessor and Lessee with the Escrow Agent pursuant to the Escrow Agreement.

"Escrow Agent" means the escrow agent and, if applicable, any successor escrow agent identified under the Escrow Agreement for any applicable Lease hereunder.

"Escrow Agreement" means the Escrow Fund and Account Control Agreement, substantially in the form of Exhibit I hereto, or another mutually agreeable form of escrow agreement to be executed by Lessor, Lessee and the Escrow Agent upon the first funding of an Equipment Schedule using the procedure described in Section 2.4.

"Events of Default" means those events described in Section 12.1.

"Fiscal Year" means each 12-month fiscal period of Lessee.

"Funding Date" means, with respect to each Lease, the date Lessor makes payment to the Vendor(s) named in the related Equipment Schedule or reimburses Lessee for the purchase price of the related Equipment Group or, if the procedure described in Section 2.4 is utilized, the date Lessor deposits funds equal to such purchase price into the Escrow Account.

"Interest" means the portion of a Rental Payment designated as and comprising interest as provided in a Payment Schedule.

"Lease" means, with respect to each Equipment Group, this Agreement and the Equipment Schedule relating thereto, which together shall constitute a separate contract between Lessor and Lessee relating to such Equipment Group.

"Lease Date" means, with respect to each Lease, the date so designated in the related Equipment Schedule.

"Lease Term" means, with respect to each Equipment Group, the period during which the related Lease is in effect as specified in Section 3.1. To the extent that A.A.C. R7-2-1093 is applicable, Lease Terms may be limited to terms of five or fewer years.

"Net Proceeds" means any insurance proceeds or condemnation awards paid with respect to any Equipment remaining after payment therefrom of all expenses incurred in the collection thereof.

"Non-Appropriation" means the failure of Lessee, Lessee's governing body, or, if applicable, the governmental entity from which Lessee obtains its operating and/or capital funds to appropriate money for any Fiscal Year sufficient for the continued payment and/or performance by Lessee of all of Lessee's obligations under this Agreement, as evidenced by the passage of an ordinance or resolution prohibiting Lessee from performing its obligations under this Agreement with respect to any Equipment and/or budget, and from using properly appropriated and/or legally available funds to pay any Rental Payments due under this Agreement during any Fiscal Year.

"Payment Date" means each date upon which a Rental Payment is due and payable as provided in a Payment Schedule.

"Payment Schedule" means the schedule of Rental Payments attached to an Equipment Schedule.

"Principal" means the portion of any Rental Payment designated as and comprising principal as provided in a Payment Schedule.

"Prepayment Price" means the amount so designated and set forth opposite a Payment Date in a Payment Schedule indicating the amount for which Lessee may purchase the related Equipment Group as of such Payment Date after making the Rental Payment due on such Payment Date.

"Rental Payment" means each payment due from Lessee to Lessor on a Payment Date.

"Specifications" means the bid specifications and/or purchase order pursuant to which Lessee has ordered any Equipment from a Vendor.

"State" means the state or commonwealth in which Lessee is situated.

"Vendor" means each of the manufacturers or vendors from which Lessee has ordered or with which Lessee has contracted for the manufacture, delivery and/or installation of the Equipment.

Section 1.2. Exhibits.

Exhibit A: Equipment Schedule including Payment Schedule.

Exhibit B: Acceptance Certificate.

Exhibit C-1: Confirmation of Outside Insurance.

Exhibit C-2: Self-Insurance Rider and Lessor Consent (if applicable).

Exhibit C-3: Questionnaire for Self Insurance and Addendum to Equipment Schedule Relating to Self-Insurance (If applicable).

Exhibit D: Essential Use Certificate (unless waived).

Exhibit E: Incumbency Certificate.

Exhibit F: Form of Opinion of Counsel to Lessee.

Exhibit G: Bank-Qualified Designation (if applicable).

Exhibit H: Tax and Arbitrage Certificate.

Exhibit I: Escrow Fund and Account Control Agreement (together with Disbursement request Form).

Exhibit J: Form of Resolution of the Governing Body of Lessee relating to each Lease.

ARTICLE II. LEASE OF EQUIPMENT

Section 2.1. Acquisition of Equipment. Prior to the addition of any Equipment Group, Lessee shall provide Lessor with a description of the equipment proposed to be subject to a Lease hereunder, including the cost and vendor of such equipment, the expected delivery date and the desired lease terms for such equipment, and such other information as the Lessor may require. If Lessor, in its sole discretion, determines the proposed equipment may be subject to a Lease hereunder, Lessor shall furnish to Lessee a proposed Equipment Schedule relating to the Equipment Group for execution by Lessee and then Lessor. By execution hereof, Lessor has made no commitment to lease any equipment to Lessee. No Lease hereunder shall be effective as to Lessee until executed by a proper party/individual following the approval of the Lessee's governing body. No Lease hereunder shall be effective as to Lessor until executed by the proper party/individual/officer following the credit, legal and any other applicable approvals then required by Lessor. Unless expressly provided herein to the contrary, neither party shall be required under this Agreement to provide any Leases, purchase any Equipment, or enter into any financing arrangements.

Section 2.2. Disbursement. Lessor shall have no obligation to make any disbursement to a Vendor or reimburse Lessee for any payment made to a Vendor for an Equipment Group (or, if the escrow procedure described in Section 2.4 hereof is utilized, consent to a disbursement by the Escrow Agent) until five (5) business days after Lessor has received all of the following in form and substance satisfactory to Lessor: (a) a completed Equipment Schedule executed by Lessee; (b) an Acceptance Certificate in the form included with Exhibit B hereto; (c) a resolution or evidence of other official action taken by or on behalf of the Lessee to authorize the acquisition of the Equipment Group on the terms provided in such Equipment Schedule; (d) a Tax Agreement and Arbitrage Certificate in the form of Exhibit H (as applicable) attached hereto; (e) evidence of insurance with respect to the Equipment Group in compliance with Article VII of this Agreement; (f) Vendor invoice(s) and/or bill(s) of sale relating to the Equipment Group, and if such invoices have been paid by Lessee, evidence of payment thereof and evidence of official intent to reimburse such payment as required by the Code; (g) financing statements naming Lessee as debtor and/or the original certificate of title or manufacturer's certificate of origin and title application, if any, for any Equipment which is part of such Equipment Group and is subject to certificate of title laws; (h) a completed and executed Form 8038-G or 8038-GC, as applicable, or evidence of filing thereof with the Secretary of Treasury; (i) an opinion of counsel to the Lessee substantially in the form of Exhibit F hereto, and (j) any other documents or items reasonably required by Lessor.

Section 2.3. Lease; Possession and Use. Lessor hereby leases the Equipment to Lessee, and Lessee hereby leases the Equipment from Lessor, upon the terms and conditions set forth herein. Lessee shall have quiet use and enjoyment of and peaceably have and hold each Equipment Group during the related Lease Term, except as expressly set forth in this Agreement.

Section 2.4. Escrow Procedure. If Lessor and Lessee agree that the cost of an Equipment Group is to be paid from an Escrow Account: (a) Lessor and Lessee shall execute an Escrow Agreement substantially in the form of Exhibit I or such other form as may be mutually agreeable by the parties thereto; (b) Lessor and Lessee shall execute an Equipment Schedule relating to such Equipment Group; and (c) Lessor shall deposit an amount equal to the cost of the Equipment Group into the Escrow Account. To the extent monies in the Escrow Account have not been used to purchase Equipment, all amounts deposited by Lessor into the Escrow Account shall serve as additional security for the payment and performance obligations of the Lessee under any Lease hereto, and, in furtherance of that security and to the extent not prohibited by applicable law, will constitute an obligation from Lessor to Lessee secured by proceeds in such Escrow Account and, when such funds are used to acquire the Equipment, shall be repaid by the Rental Payments due under the related Lease.

ARTICLE III. TERM

Section 3.1. Term. This Agreement shall be in effect from the Agreement Date until the earliest of (a) termination under Section 3.2 or (b) termination under Section 12.2; provided, however, no Equipment Schedules shall be executed after any Non-Appropriation or Event of Default. Each Lease with respect to an Equipment Group shall be in effect for a Lease Term commencing upon the Lease Date and ending as provided in Section 3.4.

Section 3.2. Termination by Lessee. In the sole event of Non-Appropriation, this Agreement and each Lease hereunder shall terminate, in whole, but not in part, as to all Equipment effective upon the last day of the Fiscal Year for which funds were appropriated, in the manner and subject to the terms specified in this Article. Lessee may affect such termination by giving Lessor a written notice of termination and by paying to Lessor any Rental Payments and other amounts which are due and have not been paid at or before the end of its then current Fiscal Year. Lessee shall endeavor to give notice of such termination not less than ninety (90) days prior to the end of the Fiscal Year for which appropriations were made, and shall notify Lessor of any anticipated termination. In the event of termination of this Agreement as provided in this Section, Lessee shall comply with the instructions received from Lessor in accordance with Section 12.3. Lessor agrees that it shall not deliberately cause an event of Non-Appropriation so as to permit Lessee to terminate this Agreement or any Lease hereunder in order to acquire any other equipment or obtain funds directly or indirectly to perform essentially the same application for the Equipment is intended.

Section 3.3. Effect of Termination. Upon termination of this Agreement as provided in Section 3.2, Lessee shall not be responsible for the payment of any additional Rental Payments coming due in succeeding Fiscal Years, but if Lessee has not complied with the instructions received from Lessor in accordance with Section 12.3, the termination shall nevertheless be effective, but Lessee shall be responsible for the payment of damages in an amount equal to the amount of the Rental Payments that would thereafter have come due if this Agreement had not been terminated and which are attributable to the number of days after which Lessee fails to comply with Lessor's instructions and for any other loss suffered by Lessor as a result of Lessee's failure to take such actions as required.

Section 3.4. Termination of Lease Term. The Lease Term with respect to any Lease will terminate upon the occurrence of the first of the following events: (a) the termination of this Agreement by Lessee in accordance with Section 3.2; (b) the payment of the Prepayment Price by Lessee pursuant to Article V; (c) an Event of Default by Lessee and Lessor's election to terminate such Lease pursuant to Article XII; or (d) the payment by Lessee of all Rental Payments and all other amounts authorized or required to be paid by Lessee pursuant to such Lease.

ARTICLE IV. RENTAL PAYMENTS

Section 4.1. Rental Payments. The Lessee agrees to pay the Rental Payments due as specified in the Payment Schedule set forth on any Equipment Schedule hereto, the form of which is attached as Exhibit A. A portion of each Rental Payment is paid as interest as specified in the Payment Schedule of each lease, and the first Rental Payment will include Interest accruing from the Funding Date. Lessor is authorized to insert the due date of the first Rental Payment in the Payment Schedule. All Rental Payments shall be paid to Lessor, or to such assignee(s) Lessor has assigned as stipulated in Article XI, at such places as Lessor or such assignee(s) may from time to time designate by written notice to Lessee. Lessee shall pay the Rental Payments with lawful money of the United States of America from moneys legally available therefor.

Section 4.2. Current Expense. The obligations of Lessee, including its obligation to pay the Rental Payments due in any Fiscal Year of a Lease Term, shall constitute a current expense of Lessee for such Fiscal Year and shall not constitute an indebtedness of Lessee within the meaning of the Constitution and laws of the State. Nothing herein shall constitute a pledge by Lessee of any taxes or other moneys (other than moneys lawfully appropriated from time to time by or for the benefit of Lessee for this Agreement and the Net Proceeds of the Equipment) to the payment of any Rental Payment or other amount coming due hereunder.

Section 4.3. Unconditional Rental Payments. Notwithstanding Lessee's right to terminate as provided in Section 3.2, Lessee's obligation to make Rental Payments shall be absolute and unconditional. Also, any other payments required hereunder shall be absolute and unconditional. Lessee shall make these payments when due and shall not withhold any of these payments pending final resolution of any disputes. The Lessee shall not assert any right of set-off or counterclaim against its obligation to make these payments. Lessee's obligation to make Rental Payments or other payments shall not be abated through accident, unforeseen circumstances, failure of the Equipment to perform as desired, damage or destruction to the Equipment, loss of possession of the Equipment or obsolescence of the Equipment. The Lessee shall be obligated to continue to make payments required of it by this Agreement if title to, or temporary use of, the Equipment or any part thereof shall be taken under exercise of the power of eminent domain.

ARTICLE V. OPTION TO PREPAY

Section 5.1. Option to Prepay. Lessee shall have the option to prepay its obligations under any Lease in whole but not in part on any Payment Date on or after the Prepayment Option Commencement Date for the then applicable Prepayment Price (which may include a prepayment fee) as set forth in the related Payment Schedule, provided there has been no Non-Appropriation or Event of Default.

Section 5.2. Exercise of Option. Lessee shall give notice to Lessor of its intention to exercise its option not less than thirty (30) days prior to the Payment Date on which the option will be exercised and shall pay to Lessor not later than such Payment Date an amount equal to all Rental Payments and any other amounts then due or past due under the related Lease (including the Rental Payment due on the Payment Date on which the option shall be effective) and the applicable Prepayment Price set forth in the related Payment Schedule. In the event that all such amounts are not received by Lessor on such Payment Date, such notice by Lessee of exercise of its option to prepay shall be void and the related Lease shall continue in full force and effect.

Section 5.3. Release of Lessor's Interest. Upon receipt of the Prepayment Price in good funds with respect to any Equipment Group, the Lease with respect to such Equipment Group shall terminate and Lessee shall become entitled to such Equipment Group AS IS, WHERE IS, WITHOUT WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR FITNESS FOR THE USE CONTEMPLATED BY LESSEE, except that such Equipment Group shall not be subject to any lien or encumbrance created by or arising through Lessor.

ARTICLE VI. REPRESENTATIONS, WARRANTIES AND COVENANTS

Section 6.1. Representations and Warranties of Lessee. Lessee represents and warrants as of the Agreement Date and as of each Lease Date as follows:

- (a) Lessee is a state or political subdivision of the State within the meaning of Section 103(c) of the Code, duly organized and existing under the Constitution and laws of the State, and is authorized under the Constitution and laws of the State to enter into this Agreement, each Lease and the transactions contemplated hereby and thereby, and to perform all of its obligations under this Agreement and each Lease.
- (b) The execution and delivery of this Agreement and each Lease have been duly authorized by all necessary action of Lessee's governing body and such action is in compliance with all public bidding and other State and federal laws applicable to this Agreement, each Lease and the acquisition and financing of the Equipment by Lessee.
- (c) This Agreement and each Lease have been duly executed and delivered by and constitutes the valid and binding obligation of Lessee, enforceable against Lessee in accordance with their respective terms.
- (d) The execution, delivery and performance of this Agreement and each Lease by Lessee shall not (i) violate any

State or federal law or local law or ordinance (including, without limitation, any public bidding, open meeting, notice, and procurement requirements), or any order, writ, injunction, decree, or regulation of any court or other governmental agency or body applicable to Lessee, or (ii) conflict with or result in the breach or violation of any term or provision of, or constitute a default under, any note, bond, mortgage, indenture, agreement, deed of trust, lease or other obligation to which Lessee is bound.

(e) There is no action, suit, proceeding, claim, inquiry or investigation, at law or in equity, before or by any court, regulatory agency, public board or body pending or, to the best of Lessee's knowledge, threatened against or affecting Lessee, challenging Lessee's authority to enter into this Agreement or any Lease or any other action wherein an unfavorable ruling or finding would adversely affect the enforceability of this Agreement or any Lease.

(f) Lessee will furnish Lessor (i) within [180] days after the end of each Fiscal Year of Lessee, a copy of its audited financial statements for such Fiscal Year, which audited financial statements shall include a balance sheet, a statement of revenues, expenses and changes in fund balances for budget and actual, a statement of cash flows, notes, schedules and any attachments to the financial statements; (ii) no later than 10 days prior to the end of each Fiscal Year (commencing with the current Fiscal Year), a copy of Lessee's current budget or other proof of appropriation for the ensuing Fiscal Year; (iii) promptly after Lessor's written request, a copy of any interim updates or modifications to Lessee's adopted budget and such other information relating to Lessee's ability to continue the Lease Term of each Lease for such Fiscal Year as may be reasonably requested by Lessor; and (iv) promptly, but not later than 30 days after such information is available, after Lessor's written request, such other financial statements and information as Lessor may reasonably request, including, without limitation, any information relating to the measurement and verification of proposed or guaranteed energy savings. The financial statements described in clause (f)(i) shall be accompanied by an unqualified opinion of Lessee's auditor. Credit information relating to Lessee may be disseminated among Lessor and any of its affiliates and any of their respective successors and assigns.

(g) Lessee or Lessee's governing body has appropriated and/or taken other lawful actions necessary to provide moneys sufficient to pay all Rental Payments during the current Fiscal Year, and such moneys will be applied in payment of all Rental Payments due and payable during such current Fiscal Year.

(h) Lessee has an immediate need for, and expects to make immediate use of, the Equipment, which need is not temporary or expected to diminish during the applicable Lease Term. Lessee presently intends to continue each Lease hereunder for its entire Lease Term and to pay all Rental Payments relating thereto.

(i) Pursuant to Arizona Administrative Code (A.A.C.) R7-2-1093, Lessee has determined that: (1) The estimated requirements Lessee has in the Equipment cover the Lease Term and are reasonable and continuing for such Lease Term, (2) This Agreement will serve the best interests of Lessee by encouraging effective competition or otherwise promote economies in Lessee procurement.

Section 6.2. Covenants of Lessee. Lessee agrees that so long as any Rental Payments or other amounts due under this Agreement remain unpaid:

(a) Lessee shall not install, use, operate or maintain the Equipment improperly, carelessly, in violation of any applicable law or regulation or in a manner contrary to that contemplated by this Agreement. Lessee shall obtain and maintain all permits and licenses necessary for the installation and operation of the Equipment. Lessee shall not, without the prior written consent of Lessor, affix or install any accessory equipment or device on any of the Equipment if such addition would change or impair the originally intended functions, value or use of such Equipment.

(b) Lessee shall provide Lessor access at all reasonable times to examine and inspect the Equipment and provide Lessor with such access to the Equipment as may be reasonably necessary to perform maintenance on the Equipment in the event of failure by Lessee to perform its obligations hereunder. Lessor shall substantially conform in all material respects with any known and reasonable fire, physical, or other security regulations during any such inspection or maintenance process.

(c) Lessee shall not, directly or indirectly, create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or other claim with respect to the Equipment, other than the respective rights of Lessor and Lessee as herein provided. Lessee shall promptly, at its own expense, take such actions as may be necessary duly to discharge or remove any such claim if the same shall arise at any time. Lessee shall reimburse Lessor for any expense incurred by Lessor in order to discharge or remove any such claim.

(d) The person or entity in charge of preparing Lessee's budget will include in the budget request for each Fiscal Year the Rental Payments to become due during such Fiscal Year, and will use all reasonable and lawful means available to secure the appropriation of money for such Fiscal Year sufficient to pay all Rental Payments coming due therein. Lessor acknowledges that appropriation for Rental Payments is a governmental function which Lessee cannot contractually commit itself in advance to perform. Lessee acknowledges that this Agreement does not constitute such a commitment. However, Lessee reasonably believes that moneys in an amount sufficient to make all Rental Payments can and will lawfully be appropriated and made available to permit Lessee's continued utilization of the Equipment in the

performance of its essential functions during the applicable Lease Terms.

(e) Lessee shall assure that its obligation to pay Rental Payments is not directly or indirectly secured by any interest in property, other than the Equipment, and that the Rental Payments will not be directly or indirectly secured by or derived from any payments of any type or any fund other than Lessee's general purpose fund.

(f) Upon Lessor's request, Lessee shall provide Lessor with current financial statements, budgets, and proof of appropriation for the ensuing Fiscal Year and such other financial information relating to the ability of Lessee to continue this Agreement and each Lease as may be reasonably requested by Lessor.

(g) Lessee shall promptly and duly execute and deliver to Lessor such further documents, instruments and assurances and take such further action as Lessor may from time to time reasonably request in order to carry out the intent and purpose of this Agreement and to establish and protect the rights and remedies created or intended to be created in favor of Lessor hereunder.

Section 6.3. Tax Related Representations, Warranties and Covenants.

(a) *Incorporation of Tax Agreement and Arbitrage Certificate.* As of each Lease Date and with respect to each Lease, Lessee makes each of the representations, warranties and covenants contained in the Tax Agreement and Arbitrage Certificate delivered with respect to such Lease. By this reference each such Tax Agreement and Arbitrage Certificate is incorporated in and made a part of this Agreement.

(b) *Event of Taxability.* If Lessor either (i) receives notice, in any form, from the Internal Revenue Service or (ii) reasonably determines, based on an opinion of independent tax counsel selected by Lessor, that Lessor may not exclude any Interest paid under any Lease from its Federal gross income existing from and as a result of any acts and omissions and/or on the part of the Lessee (each an "Event of Taxability"), the Lessee shall pay to Lessor upon demand (x) an amount which, with respect to Rental Payments previously paid and taking into account all penalties, fines, interest and additions to tax (including all federal, state and local taxes imposed on the Interest due through the date of such event), will restore to Lessor its after-tax yield (assuming tax at the highest marginal tax rate and taking into account the time of receipt of Rental Payments and reinvestment at the after-tax yield rate) on the transaction evidenced by such Lease through the date of such event and (y) as additional Rental Payments to Lessor on each succeeding Payment Date such amount as will maintain such after-tax yield to Lessor.

ARTICLE VII. INSURANCE AND RISK OF LOSS

Section 7.1. Liability and Property Insurance. Lessee shall, at its own expense, procure and maintain continuously in effect during each Lease Term: (a) public liability insurance for death or injuries to persons, or damage to property arising out of or in any way connected to the Equipment sufficient to protect Lessor and/or assigns from liability in all events, with a coverage of not less than \$1,000,000 per occurrence and either \$3,000,000 aggregate for non-titled Equipment or \$5,000,000/ aggregate for titled Equipment unless specified differently in the related Equipment Schedule, and (b) insurance against such hazards as Lessor may require, including, but not limited to, all-risk casualty and property insurance, in an amount equal to the greater of the full replacement cost of the Equipment or the applicable Prepayment Price of each Equipment Group.

Section 7.2. Workers' Compensation Insurance. If required by State law, Lessee shall carry workers' compensation insurance covering all employees on, in, near or about the Equipment, and upon request, shall furnish to Lessor certificates evidencing such coverage throughout the Lease Term.

Section 7.3. Insurance Requirements.

(a) *Insurance Policies.* All insurance policies required by this Article shall be taken out and maintained with insurance companies acceptable to Lessor and shall contain a provision that thirty (30) days prior to any change in the coverage the insurer must provide written notice to the insured parties. No insurance shall be subject to any co-insurance clause. Each insurance policy shall name Lessor and/or its assigns as an additional insured party and loss payee regardless of any breach of warranty or other act or omission of Lessee and shall include a lender's loss payable endorsement for the benefit of Lessor and/or its assigns. Prior to the delivery of Equipment, Lessee shall deposit with Lessor evidence satisfactory to Lessor of such insurance and, prior to the expiration thereof, shall provide Lessor evidence of all renewals or replacements thereof.

(b) *Self Insurance.* With Lessor's prior consent, Lessee may self-insure the Equipment by means of an adequate insurance fund set aside and maintained for that purpose which must be fully described in a letter delivered to Lessor in form acceptable to Lessor.

(c) *Evidence of Insurance.* Lessee shall deliver to Lessor upon acceptance of any Equipment evidence of insurance which complies with this Article VII with respect to such Equipment to the satisfaction of Lessor, including, without limitation, the confirmation of insurance in the form of Exhibit C-1 attached hereto together with Certificates of Insurance, when available, or the Questionnaire for Self-Insurance Rider and Lessor Consent in the form of Exhibit C-2 attached hereto, as applicable.

(d) *Payment and Performance Bond.* If requested by Lessor, which will be solely in circumstances where the Equipment will not be fully delivered and accepted at the time of funding yet partial payment therefor has been or will be

made by Lessor or from an Escrow Account, a payment and performance or other type of surety bond and dual obligee rider ("Bond") is required in form and substance and with such insurer as may be required by Lessor, and Lessee will keep such Bond in effect (or require the Vendor to keep such Bond in effect) and provide Lessor with a evidence of such Bond (and any applicable renewals thereof) at all times until the final Acceptance Certificate is delivered to the Lessor. No disbursements from the Escrow Account will be permitted without evidence of such Bond having been delivered to the Lessor.

Section 7.4. Risk of Loss. To the extent permitted by applicable laws of the State, as between Lessor and Lessee, Lessee assumes all risks and liabilities from any cause whatsoever, whether or not covered by insurance relating to any Lease hereunder, for loss or damage to any Equipment and for injury to or death of any person or damage to any property. Whether or not covered by insurance, Lessee hereby assumes responsibility for and agrees to release, defend, and hold harmless Lessor from all liabilities, obligations, losses, damages, penalties, claims, actions, costs and expenses, including reasonable attorneys' fees, imposed on, incurred by or asserted against Lessor that relate to or arise out of this Agreement, including but not limited to, (a) the selection, manufacture, purchase, acceptance or rejection of Equipment or the ownership of the Equipment, (b) the delivery, lease, possession, maintenance, use, condition, return or operation of the Equipment, (c) the condition of the Equipment sold or otherwise disposed of after possession by Lessee, (d) the conduct of Lessee, its officers, employees and agents, (e) a breach of Lessee of any of its covenants or obligations hereunder, (f) any claim, loss, cost or expense involving alleged damage to the environment relating to the Equipment, including, but not limited to investigation, removal, cleanup and remedial costs, and (g) any strict liability under the laws or judicial decisions of any state or the United States. This provision shall survive the termination of this Agreement. Nothing in this Section 7.4 shall be deemed to obligate Lessee to spend any monies with regards to the matters set forth herein that are not properly appropriated, designated for such purposes (e.g. insurance proceeds, warranty payments, self-insurance, reserve or sinking funds, etc.) and/or otherwise legally available. Nothing herein shall be deemed to (a) create an unconstitutional or illegal obligation on the part of the Lessee and (b) be a waiver of any constitutional or statutory waivers, rights, immunities, or privileges. Any provision or requirement of the Agreement which is determined or to be illegal, invalid, or unconstitutional shall be stricken solely to the extent of such invalidity with the remainder of the provisions of the Agreement to be in full force and effect.

Section 7.5. Destruction of Equipment. Lessee shall provide a complete written report to Lessor immediately upon any loss, theft, damage or destruction of any Equipment and of any accident involving any Equipment. Lessor may inspect the Equipment at any time and from time to time during regular business hours. If all or any part of the Equipment is stolen, lost, destroyed or damaged beyond repair or taken by an exercise of eminent domain ("Damaged Equipment"), Lessee shall within thirty (30) days after such event either: (a) replace the same at Lessee's sole expense with equipment having substantially similar Specifications and of equal or greater value to the Damaged Equipment immediately prior to the time of the loss occurrence, such replacement equipment to be subject to Lessor's approval, whereupon such replacement equipment shall be substituted in the applicable Lease and the other related documents by appropriate endorsement or amendment; or (b) pay the applicable Prepayment Price of the Damaged Equipment determined as set forth in the related Equipment Schedule. Lessee shall notify Lessor of which course of action it will take within fifteen (15) days after the loss occurrence. If, within forty-five (45) days of the loss occurrence, (a) Lessee fails to notify Lessor; (b) Lessee and Lessor fail to execute an amendment to the applicable Equipment Schedule to delete the Damaged Equipment and add the replacement equipment or (c) Lessee has failed to pay the applicable Prepayment Price, then Lessor may, at its sole discretion, declare the applicable Prepayment Price of the Damaged Equipment, to be immediately due and payable from the Net Proceeds and any other legally available or proper appropriated funds. The Net Proceeds of insurance with respect to the Damaged Equipment shall be made available by Lessor to be applied to discharge Lessee's obligation under this Section.

ARTICLE VIII. OTHER OBLIGATIONS OF LESSEE

Section 8.1. Maintenance of Equipment. Lessee shall notify Lessor in writing prior to moving the Equipment to another address and shall otherwise keep the Equipment at the address specified in the related Equipment Schedule. Lessee shall, at its own expense, maintain the Equipment in proper working order and shall make all necessary repairs and replacements to keep the Equipment in such condition including compliance with State and federal laws. Any and all replacement parts must be free of encumbrances and liens. All such replacement parts and accessories shall be deemed to be incorporated immediately into and to constitute an integral portion of the Equipment and as such, shall be subject to the terms of this Agreement.

Section 8.2. Taxes. Lessee shall pay all taxes and other charges which are assessed or levied against the Equipment, the Rental Payments or any part thereof, or which become due during the Lease Term, whether assessed against Lessee or Lessor, except as expressly limited by this Section. Lessee shall pay all utilities and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Equipment, and all special assessments and charges lawfully made by any governmental body that may be secured by a lien on the Equipment. Lessee shall not be required to pay any federal, state or local income, succession, transfer, franchise, profit, excess profit, capital stock, gross receipts, corporate,

or other similar tax payable by Lessor, its successors or assigns, unless such tax is made as a substitute for any tax, assessment or charge which is the obligation of Lessee under this Section.

Section 8.3. Advances. If Lessee shall fail to perform any of its obligations under this Article, Lessor may take such action to cure such failure, including the advancement of money, and Lessee shall be obligated to repay all such advances on demand, with interest at the Default Rate from the date of the advance to the date of repayment.

ARTICLE IX. TITLE

Section 9.1. Title. Except as may be modified on any Schedule hereto or solely if and to the extent as required by any laws of the State, during the Lease Term, ownership and legal title of all Equipment and all replacements, substitutions, repairs and modification shall be in Lessee and Lessee shall take all action necessary to vest such ownership and title in Lessee. Lessor does not own the Equipment and by this Agreement and each Lease is merely financing the acquisition of such equipment for Lessee. Lessor has not been in the chain of title of the Equipment, does not operate, control or have possession of the Equipment and has no control over the Lessee or the Lessee's operation, use, storage or maintenance of the Equipment.

Section 9.2. Security Interest. Lessee hereby grants to Lessor a continuing, first priority security interest in and to the Equipment, all repairs, replacements, substitutions and modifications thereto and all proceeds thereof (including without limitation any Net Proceeds, warranty payments and guaranteed energy or other savings payments) and in the Escrow Account (if any) in order to secure Lessee's payment of all Rental Payments and the performance of all other obligations. Lessee hereby authorizes Lessor to prepare and file such financing statements and other such documents to establish and maintain Lessor's valid first priority lien and perfected security interest. Lessee will join with Lessor in executing such documents and will perform such acts as Lessor may request to establish and maintain Lessor's valid first priority lien and perfected security interest. If requested by Lessor, Lessee shall obtain a landlord and/or mortgagee's consent and waiver with respect to the Equipment. If requested by Lessor, Lessee shall conspicuously mark the Equipment, and maintain such markings during the Lease Term, to clearly disclose Lessor's security interest in the Equipment. Upon termination of a Lease through exercise of Lessee's option to prepay pursuant to Article V or through payment by Lessee of all Rental Payments and other amounts due with respect to an Equipment Group, Lessor's security interest in such Equipment Group shall terminate, and Lessor shall execute and deliver to Lessee such documents as Lessee may reasonably request (at the sole cost and expense) to evidence the termination of Lessor's security interest in such Equipment Group.

Section 9.3. Modification of Equipment. Lessee will not, without the prior written consent of Lessor, affix or install any accessory equipment or device on any of the Equipment if such addition will change or impair the originally intended value, function or use of the Equipment.

Section 9.4. Personal Property. Except as permitted by Lessor in writing in connection to any Equipment Schedules, the Equipment is and shall at all times be and remain personal property and not fixtures.

ARTICLE X. WARRANTIES

Section 10.1. Selection of Equipment. Each Vendor and all of the Equipment have been selected by Lessee. Lessor shall have no responsibility in connection with the selection of the Equipment, the ordering of the Equipment, its suitability for the use intended by Lessee, the acceptance by any Vendor or its sales representative of any order submitted, or any delay or failure by such Vendor or its sales representative to manufacture, deliver or install any Equipment for use by Lessee.

Section 10.2. Vendor's Warranties. Lessor hereby assigns to Lessee for and during the related Lease Term, all of its interest, if any, in all Vendor's warranties, guarantees and patent indemnity protection, express or implied issued on or applicable to an Equipment Group, and Lessee may obtain the customary services furnished in connection with such warranties and guarantees at Lessee's expense. Lessor has no obligation to enforce any Vendor's warranties or obligations on behalf of itself or Lessee.

Section 10.3. Disclaimer of Warranties. LESSEE ACKNOWLEDGES THAT THE EQUIPMENT IS OF A SIZE, DESIGN, CAPACITY, AND MANUFACTURE SELECTED BY LESSEE. LESSEE ACKNOWLEDGES THAT IT SELECTED THE EQUIPMENT WITHOUT ASSISTANCE OF LESSOR, ITS AGENTS OR EMPLOYEES. LESSOR IS NOT A MANUFACTURER OF THE EQUIPMENT OR A DEALER IN SIMILAR EQUIPMENT, AND DOES NOT INSPECT THE EQUIPMENT BEFORE DELIVERY TO LESSEE. LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, QUALITY, DURABILITY, SUITABILITY, MERCHANT-ABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR FITNESS FOR THE USE CONTEMPLATED BY LESSEE OF THE EQUIPMENT, OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE EQUIPMENT. IN NO EVENT SHALL LESSOR BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT OR THE EQUIPMENT OR LESSEE'S USE OF THE EQUIPMENT.

ARTICLE XI. ASSIGNMENT AND SUBLEASING

Section 11.1. Assignment by Lessor. No right or interest in any Lease shall be assigned by Lessor without prior written permission of Lessee, pursuant to A.A.C. R7-2-1003.D, except the sole right to receive payment hereunder as provided in the Arizona Uniform Commercial Code ("U.C.C."), A.R.S. ' 47-9318, which assignment shall be completed as required by the U.C.C. Such permission of Lessee shall not be unreasonably withheld. Upon receipt of written permission of Lessee, Lessor may assign (or reassign) its right, title and interest in a Lease and the Equipment, subject to the rights of Lessee. (A form of Notice of and Consent to Assignment and Delegation is attached hereto as Exhibit K.) By its written permission Lessee consents to such assignments, and all rights of and benefits to Lessor shall inure to the assignee. If requested, Lessee shall make payments required under the assigned Lease directly to the assignee without abatement or reduction of any kind. Lessor must provide Lessee with the name, address, social security number or tax identification number of each such assignee; provided, however, that if such assignment is made to a bank or trust company or escrow agent for holders of certificates of participation in a Lease, it shall thereafter be sufficient that a copy of the Escrow Agreement shall have been deposited with Lessee until Lessee shall have been advised that such Escrow Agreement is no longer in effect. During the Lease Term of each Lease, Lessee shall keep a complete and accurate record of all such assignments reported to it by Lessor in a form necessary to comply with the United States Internal Revenue Code of 1986, Section 149(a), and the regulations, proposed or existing, from time to time promulgated thereunder, except during such period when certificates of participation are outstanding, at which time the bank or trust company shall maintain such records. Neither notice of assignment from Lessor, nor Lessee's permission for an assignment shall be so required if Lessor assigns a Lease any of its direct or indirect subsidiaries. Lessee agrees to acknowledge in writing any permitted assignments if so requested by the assignee. Notwithstanding the foregoing, the parties agree that Lessor may assign, at its sole option, the right to payments under any Lease to a trust fund or similar pool of securities in which investors will receive fractional interest in the assets of such pool without the prior consent of Lessee.

Section 11.2. Assignment and Subleasing by Lessee. Lessee shall not sell, assign, sublease, transfer, pledge or hypothecate this Agreement, any Schedule, the Equipment or any part thereof, of any interest therein, or permit the Equipment or any part thereof to be used by anyone other than Lessee or its employees without the written permission of Lessor. Such permission of Lessor to assign as provided herein shall not be unreasonably withheld."

ARTICLE XII. EVENTS OF DEFAULT AND REMEDIES

Section 12.1. Events of Default Defined. The occurrence of any of the following events shall constitute an Event of Default under this Agreement and each Lease:

- (a) Lessee's failure to pay, within ten (10) days following the due date thereof, any Rental Payment or other amount required to be paid to Lessor (other than by reason of Non-Appropriation).
- (b) Lessee's failure to maintain insurance as required by Article VII.
- (c) With the exception of the above clauses (a) & (b), Lessee's failure to perform or abide by any condition, agreement or covenant for a period of thirty (30) days after written notice by Lessor to Lessee specifying such failure and requesting that it be remedied, unless Lessor shall agree in writing to an extension of time prior to its expiration.
- (d) Lessor's determination that any representation or warranty made by Lessee in this Agreement was untrue in any material respect upon execution of this Agreement or any Equipment Schedule.
- (e) The occurrence of an Event of Taxability and Lessee's failure to comply with the provisions of Section 6.3(b).
- (f) The filing of a petition in bankruptcy by or against Lessee, or failure by Lessee promptly to lift any execution, garnishment or attachment of such consequence as would impair the ability of Lessee to carry on its governmental functions or assignment by Lessee for the benefit of creditors, or the entry by Lessee into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of any adjustment of indebtedness of Lessee, or the dissolution or liquidation of Lessee.

Section 12.2. Remedies on Default. Upon the occurrence of any Event of Default, Lessor shall have the right, at its option and without any further demand or notice to one or more or all of the following remedies:

- (a) Lessor, with or without terminating this Agreement or any Lease, may declare all Rental Payments immediately due and payable by Lessee, whereupon such Rental Payments shall be immediately due and payable, together with interest at the Default Rate, but solely from properly appropriated, legally available, or other funds designated for such purposes (e.g. insurance proceeds, warranty payments, self-insurance, reserve or sinking funds, etc.).
- (b) Lessor, with or without terminating this Agreement or any Lease, may repossess any or all of the Equipment by giving Lessee written notice to deliver such Equipment in the manner provided in Section 12.3; or in the event Lessee fails to do so within ten (10) days after receipt of such notice, Lessor may enter upon Lessee's premises where such Equipment is kept and take possession of such Equipment and charge Lessee for all actual and reasonable accrued costs incurred, including reasonable attorneys' fees. Lessee hereby expressly waives any damages occasioned by such repossession except those resulting from Lessor's gross negligence or willful misconduct. If the Equipment or any portion has been destroyed, Lessee shall pay the applicable Prepayment Price of the destroyed Equipment as set forth in the related Payment Schedule, but solely from properly appropriated, legally available, or other funds designated for such purposes

(e.g. insurance proceeds, warranty payments, self-insurance, reserve or sinking funds, etc.). Regardless of the fact that Lessor has taken possession of the Equipment, Lessee shall continue to be responsible for the Rental Payments due during the Fiscal Year.

(c) If Lessor terminates this Agreement and/or any Lease and, in its discretion, takes possession and disposes of any or all of the Equipment, Lessor shall apply the proceeds of any such disposition to pay the following items in the following order: (i) all costs (including, but not limited to, attorneys' fees) incurred in securing possession of the Equipment; (ii) all expenses incurred in completing the disposition; (iii) any sales or transfer taxes; (iv) the applicable Prepayment Prices of the Equipment Groups; (v) the balance of any Rental Payments owed by Lessee during the Fiscal Year then in effect; and (vi) interest on any of the foregoing at the Default Rate. Any disposition proceeds remaining after the requirements of Clauses (i), (ii), (iii), (iv), (v) and (vi) have been met shall be paid to Lessee.

(d) Lessor may take any other remedy available, at law or in equity, with respect to such Event of Default, including those sounding in mandamus, specific performance/enforcement, or otherwise requiring Lessee to perform any of its obligations or to pay any moneys due and payable to Lessor, and Lessee shall pay the actual reasonable attorneys' fees and other costs and expenses incurred by Lessor in enforcing any remedy permitted and exercise hereunder together with interest at the Default Rate.

(e) Each of the foregoing remedies is cumulative and may be enforced separately or concurrently. All monetary damages and/or payment remedies set forth in this Section 12, shall be payable solely from properly appropriated, legally available, or other funds designated for such purposes (e.g. insurance proceeds, warranty payments, self-insurance, reserve or sinking funds, etc.). In no event shall the rights and remedies herein constitute a debt, illegal or unconstitutional undertaking of the Lessee or its governing body.

Section 12.3. Return of Equipment: Release of Lessee's Interest. Upon termination of any Lease prior to the payment of all related Rental Payments or the applicable Prepayment Price (whether as result of Non-Appropriation or Event of Default), Lessee shall, within ten (10) days after such termination, at its own expense: (a) perform any testing and repairs required to place the related Equipment in the condition required by Article VIII; (b) if deinstallation, disassembly or crating is required, cause such Equipment to be deinstalled, disassembled and crated by an authorized manufacturer's representative or such other service person as is satisfactory to Lessor; and (c) return such Equipment to a location specified by Lessor, freight and insurance prepaid by Lessee. If Lessee refuses to return such Equipment in the manner designated, Lessor may repossess the Equipment without demand or notice and without court order or legal process and charge Lessee the costs of such repossession. Upon termination of this Agreement in accordance with Article III or Article XII hereof, at the election of Lessor and upon Lessor's written notice to Lessee, full and unencumbered legal title and ownership of the Equipment shall pass to Lessor. Lessee shall have no further interest therein. Lessee shall execute and deliver to Lessor such documents as Lessor may request to evidence the passage of legal title and ownership to Lessor and termination of Lessee's interest in the Equipment.

Section 12.4 Late Charge. Lessor shall have the right to require late payment charge for each Rental or any other amount due hereunder which is not paid within 10 days of the date when due equal to the lesser of 5% of each late payment or the legal maximum. For any Rent Payment and other amount not paid within 30 days of the due date, Lessor shall have the right to resume interest thereof at the Default Rate which shall accrue from the due date. This Section is only applicable to the extent it does not affect the validity of this Agreement.

ARTICLE XIII. MISCELLANEOUS PROVISIONS

Section 13.1. Notices. All written notices to be given under this Agreement shall be given by mail to the party entitled thereto at its address specified beneath each party's signature, or at such address as the party may provide to the other parties hereto in writing from time to time. Any such notice shall be deemed to have been received 72 hours after deposit in the United States mail in registered or certified form, with postage fully prepaid, or, if given by other means, when delivered at the address specified in this Section 13.1.

Section 13.2. Binding Effect. This Agreement and each Lease hereunder shall be binding upon and shall inure to the benefit of Lessor and Lessee and their respective successors and assigns. Specifically, as used herein the term "Lessor" means any person or entity to which Lessor has assigned its right to receive Rental Payments under any Lease.

Section 13.3. Severability. In the event any provision of this Agreement or any Lease shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof or valid portion thereof. Any invalid provision shall be stricken as to the extent the invalidity and the parties, not a Court, shall take reasonable steps to make the Agreement or any Lease thereunder compliant with all applicable federal, State or local laws.

Section 13.4. Entire Agreement; Amendments. This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous writings, understandings, agreements, solicitation documents and representations, express or implied. This Agreement may be amended or modified only by written documents duly authorized, executed and delivered by Lessor and Lessee.

Section 13.5. Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit

or describe the scope or intent of any provisions, Articles, Sections or Clauses hereof.

Section 13.6. Further Assurances and Corrective Instruments. Lessor and Lessee agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Equipment hereby leased or intended so to be, or for otherwise carrying out the expressed intention of this Agreement. Lessee hereby authorizes Lessor to file any financing statement or supplements thereto as may be reasonably required for correcting any inadequate description of the Equipment hereby leased or intended so to be, or for otherwise carrying out the expressed intention of this Agreement.

Section 13.7. Governing Law. The parties agree that this Agreement was negotiated, made and entered into in Arizona and shall be governed and interpreted under the laws of the State of Arizona. Any administrative action or other action arising out of this Agreement, including any action involving any assignee of Lessor, whether for the enforcement thereof or otherwise, shall be brought in Yavapai County, Arizona.

Section 13.8. Usury. It is the intention of the parties hereto to comply with any applicable usury laws; accordingly, it is agreed that, notwithstanding any provisions to the contrary herein or in any Equipment Schedule, in no event shall this Agreement or any Lease hereunder require the payment or permit the collection of Interest or any amount in the nature of Interest or fees in excess of the maximum amount permitted by applicable law. Any such excess Interest or fees shall first be applied to reduce Principal, and when no Principal remains, refunded to Lessee. In determining whether the Interest paid or payable exceeds the highest lawful rate, the total amount of Interest shall be spread through the applicable Lease Term so that the Interest is uniform through such term.

Section 13.9. Lessee's Performance. A failure or delay of Lessor to enforce any of the provisions of this Agreement or any Lease shall in no way be construed to be a waiver of such provision.

Section 13.10. Waiver of Jury Trial. Except as prohibited by the laws and/or constitution of the State, Lessor and Lessee hereby waive any right to trial by jury in any action or proceeding with respect to, in connection with or arising out of this Agreement.

Section 13.11. Cancellation for Conflict of Interest. Pursuant to Arizona Revised Statutes Section 38-511, as applicable, the provisions which are incorporated herein by reference, this Master Lease Agreement, and any of its Schedules and Exhibits, is subject to cancellation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Agreement and any of its Schedules and Exhibits on behalf of Lessee either is, at any time while the Agreement or any Schedule or Exhibit is in effect, an employee or agent of any other party to this Agreement and any of its Schedules and Exhibits in any capacity or a consultant to any other party to this Agreement and any of its Schedules and Exhibits with respect to the subject matter of this Agreement or any of its Schedules or Exhibits.

Section 13.12. Arizona Compliance. Lessor and Lessee agree that they shall use all commercially reasonable efforts to comply with all applicable federal, State, and local rules, laws and regulations of the State. Lessor hereby represents and warrants that Lessor complies with the federal immigration laws and regulations that relate to their employees and with Arizona Revised Statutes Section 23-214(A). A breach of this warranty shall be deemed a material breach of this Agreement, subject to penalties up to and including termination of this Agreement by the Lessee, in its sole discretion. Subject to reasonable prior written notice, Lessee retains the legal right to inspect the papers of any Lessor or subcontractor employee who works on the Agreement to ensure compliance with this warranty. In accordance with Arizona Revised Statutes Sections 35-391.06 and 35-393.06.

Section 13.13 Cancellation Due to Gratuities. Lessee by written notice to Lessor may cancel this Agreement if it is found by Lessee that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by Lessor or any agent or representative of Lessor to any officer or employee of Lessee.

Section 13.14 Payment of Vendor. Lessor recognizes that the transaction described in each Lease is a lease of the Equipment with title in Lessee. Lessor further recognizes that Lessee desires to maintain its credit rating and that Lessor's delay or inability to pay Vendor would be detrimental to that rating. Accordingly, so long as no event of default has occurred under the Agreement and so long as any applicable commitment from Lessor has not expired, Lessor shall pay Vendor the contract price for the Equipment within five (5) business days of after the execution of each Lease and the delivery to Lessor of all documents required to be delivered upon execution of each Lease, but in no event sooner than the date when the Equipment is delivered and operating to the satisfaction of Lessee as evidenced by an executed Acceptance Certificate.

Section 13.15 No Arrearage. Lessor is not in arrears with respect to the payment of any monies due and owing the State or any department or agency thereof, Lessee, or any other school district of the State, including but not limited to the payment of taxes and employee benefits, and that it shall not become so during the Lease Term.

Section 13.16 Governmental Approvals. Lessor shall procure and maintain in effect, at its expense, all licenses, permits and governmental approvals, if any, necessary to the performance of its activities and obligations under this Agreement.

Section 13.17 Lessee's Safety Regulations. If Lessor enters onto the premises where the Equipment is located, at such times, Lessor shall conform in all respects with reasonable physical, fire and other security regulations.

Section 13.18 Approval by Governing Board. No Lease shall become effective until approved and authorized by the governing board of Lessee by resolution. No substantive change may be made to this Agreement or a Lease without approval of Lessee's governing board.

Section 13.19 Disputes. If applicable, the parties acknowledge and agree that any dispute arising out of this Agreement shall be resolved as provided in the School District Procurement Rules (A.A.C. R7-2-1001 through R7-2-1159, and R7-2-1181 through R7-2-1184). In the event of a dispute between Lessee and Lessor under this Agreement, the losing party in such dispute shall pay all costs and expenses incurred by the prevailing party in connection therewith, including but not limited to attorney's fees.

Section 13.20 No Implied Obligations. Except as herein otherwise expressly provided, neither party shall be required under this Agreement to provide any services or make any expenditures.

Section 13.21 Lease Term Limitation. Pursuant to A.A.C. R7-2-1093 no Lease Term shall exceed five or more years."

Section 13.22 Israel Boycott Disclosure. Consultant agrees not to participate in during the term of the contract a boycott of Israel in accordance with A.R.S. §35-393.01. Consultant understands that entire response and any related contract documents will become public record in accordance with A.A.C. R2-7-C317.

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EXECUTION PAGE OF MASTER LEASE AGREEMENT

LEASE NUMBER _____

IN WITNESS WHEREOF, Lessor has caused this Agreement to be executed in its corporate name by its duly authorized officer, and Lessee has caused this Agreement to be executed in its name by its duly authorized officer.

CITY OF COTTONWOOD,
Lessee

SIGNATURE PUBLIC FUNDING CORP.
Lessor

By: _____
Name: Jesus "Rudy" Rodrigues
Title: Administrative Services General Manager
Date: _____

By: _____
Name: Donald S. Keough
Title: Senior Managing Director
Date: _____

Address: 816 North Main Street
Cottonwood, AZ 86326

Address: 600 Washington Avenue, Suite 305
Towson, MD 21204

Telephone: 928-340-2710
Facsimile: 928-301-4719

Telephone: 410-704-0027
Facsimile: 646-927-4005

Invoices:

Mail please [] days prior to: 816 North Main Street Cottonwood, AZ 86326

E-mail please [] days prior to: rrodriguz@cottonwoodaz.gov

IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT

To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. You acknowledge and agree to cooperate with any information that may be requested by us in order to comply with the United States Patriot Act, OFAC and/or BSA regulations. What this means for you: When you open an account, we will ask for your name, address, date of birth, and other information that will allow us to identify you. We may also ask to see your driver's license or other identifying documents.

Counterpart No. _____ of two manually executed and serially numbered counterparts. To the extent that this Master Agreement constitutes chattel paper (as defined in the applicable Uniform Commercial Code), no security or ownership interest herein may be created through the transfer or possession of any Counterpart other than Counterpart No. 1.

EXHIBIT A: LEASE SCHEDULE

EQUIPMENT SCHEDULE 001 DATED NOVEMBER 30, 2016

This Equipment Schedule 001 dated as of November 30, 2016 ("Equipment Schedule") is made to and part of that certain Master Equipment Lease-Purchase Agreement dated as of November 30, 2016 (the "Master Agreement," and together with the Equipment Schedule, the "Lease"), and the terms, conditions and provisions of the Master Agreement (other than to the extent that they relate solely to other Schedules or Equipment listed on other Schedules or if they are expressly superseded in this Equipment Schedule) are hereby incorporated into this Equipment Schedule by reference and made a part hereof. This Lease is a separate and individual instrument of lease.

1. DESCRIPTION OF THE EQUIPMENT:

Equipment shall consist of those units or items of equipment as set forth below and/or as may be accepted by the Lessee and financed hereunder, together with all embedded software, replacements, additions, attachments, substitutions, modifications, upgrades, and improvements thereto (collectively the "Equipment") pursuant to that "Vendor Contract" (as described below) between each respective "Vendor" and Lessee, which is and financed by this Lease.

<u>Quantity</u>	<u>Equipment Description (with VIN and MSN)</u>	<u>Total Cost</u>	<u>Vendor Name and Contract/Invoice</u>	<u>Location</u>
2	2016/2017 Police Pursuit Vehicles	126,232.00		
1	Fire Engine (Type 1)	600,000.00		
2	Fire Suppression & Rescue Equipment- Jaws of Life	60,000.00		
	Street Sweeper	200,000.00		
	Cardio Fitness Equipment for Recreation Center	208,000.00		
	Closing Costs	500.00		
	TOTAL LEASE PROCEEDS:	1,194,732.00		

2. **EQUIPMENT LOCATION:** The Lease Proceeds are being deposited into an Escrow Fund as of the Commencement Date, specific locations and items of Equipment will be as more fully set forth on each Disbursement Request Form and Acceptance Certificate provided in connection herewith and approved by Lessor.

3. **PAYMENT SCHEDULE:** The Rental Payments shall be made for the Equipment as follows:

<u>Payment Number</u>	<u>Date Due</u>	<u>Total Rental Payment Due</u>	<u>Interest Component</u>	<u>Principal Component</u>	<u>Prepayment Price*</u>
Loan	11/30/16				1,230,573.96
1	07/01/17	124,952.93	11,235.36	113,717.57	1,102,634.72
2	01/01/18	124,952.93	8,621.09	116,331.84	983,976.24
3	07/01/18	124,952.93	7,693.34	117,259.59	864,371.46
4	01/01/19	124,952.93	6,758.20	118,194.73	743,812.84
5	07/01/19	124,952.93	5,815.60	119,137.33	622,292.76
6	01/01/20	124,952.93	4,865.48	120,087.45	499,803.56
7	07/01/20	124,952.93	3,907.78	121,045.15	376,337.51
8	01/01/21	124,952.93	2,942.44	122,010.49	251,886.81
9	07/01/21	124,952.93	1,969.41	122,983.52	126,443.62
10	01/01/22	124,952.93	988.60	123,964.33	0.00

Grand Totals	1,249,529.30	54,797.30	1,194,732.00
---------------------	---------------------	------------------	---------------------

* Assumes that all rental payments and other amounts due on and prior to that date have been paid.

4. **INTEREST RATE:** 1.59% %
5. **COMMENCEMENT DATE:** 11/30/16. Interest, if any, accruing from the Commencement Date to the actual date of funding shall be retained by Lessor as additional consideration for entering into this Equipment Schedule.
6. **SCHEDULED LEASE TERM:** 61 months
7. **OPTIONAL PREPAYMENT COMMENCEMENT DATE:** July 1, 2017.
8. **FISCAL YEAR:** Lessee's current Fiscal Year extends from July 1, 2016.
9. Lessee hereby represents, warrants, and covenants that (i) its representations, warranties, and covenants set forth in the Master Equipment Lease-Purchase Agreement (particularly Paragraph 7 thereof) are true and correct as though made on the date of execution of this Equipment Schedule, and (ii) sufficient funds have been appropriated by Lessee for the payment of all Rental Payments due under this Lease during Lessee's current Fiscal Year. Funds for making Rental Payments are expected to come from the General Fund of the Lessee.
10. **ESSENTIAL USE:** The Equipment will be used by the following governmental agency department for the specific purpose of: Police, Rescue and Public works. The Equipment is essential for the functioning of the Lessee and is immediately needed by the Lessee, and such need is neither temporary, nor expected to diminish during the Lease Term. The Equipment is expected to be used by the Lessee for a period in excess of the Lease Term.

[Signature Pages to Follow.]

**IN WITNESS WHEREOF, LESSOR AND LESSEE HAVE EXECUTED THIS EQUIPMENT SCHEDULE
AS OF THE DAY AND YEAR FIRST WRITTEN ABOVE**

CITY OF COTTONWOOD,
Lessee

SIGNATURE PUBLIC FUNDING CORP.
Lessor

By: _____

By: _____

Name: Jesus "Rudy" Rodrigues
Title: Administrative Services General Manager
Date: _____

Name: Donald S. Keough
Title: Senior Managing Director
Date: _____

Address: 816 North Main Street
Cottonwood, AZ 86326

Address: 600 Washington Avenue, Suite 305
Towson, MD 21204

Counterpart No. _____ of two manually executed and serially numbered counterparts. To the extent that this Equipment Schedule constitutes chattel paper (as defined in the applicable Uniform Commercial Code), no security or ownership interest herein may be created through the transfer or possession of any Counterpart other than Counterpart No. 1.

EXHIBIT B

ACCEPTANCE CERTIFICATE

The undersigned, as Lessee under Schedule No. 001 dated as of November 30, 2016 (the "Schedule") to that certain Master Equipment Lease-Purchase Agreement dated as of November 30, 2016 (the "Master," and together with the Schedule, the "Lease"), acknowledges receipt in good condition those certain units of the Equipment described in the Lease and more specifically listed on Annex I hereto as of the Acceptance Date set forth below. Capitalized terms used herein without definition shall be given their meaning in the Lease.

1. The units of Equipment listed on Annex I hereto represent a portion of the Equipment listed on the Schedule and to be acquired under the Lease. By its execution hereto, the Lessee represents and warrants that: (1) the Equipment listed on Annex I hereto has been delivered, installed and accepted on the date hereof; and (2) it has conducted such inspection and/or testing of the Equipment listed on Annex I hereto as it deems necessary and appropriate and hereby acknowledges that it unconditionally and irrevocably accepts the Equipment listed in Annex I hereto for all purposes. Lessee confirms that it will commence or continue to make Rental Payments in accordance with the terms of the Lease. Copies of invoices, proof of payment (if applicable), reimbursement resolutions (if applicable), and purchase orders and/or agreement have been attached with Annex I hereto. As applicable, the following documents are attached hereto and made a part hereof: (a) Original Invoice(s) and (b) Copies of Certificate(s) of Ownership, MSOs, or Certificates of Title, designating Lessor as first position lienholder, and (c) any other evidence of filing or documents attached hereto

2. Lessee hereby certifies and represents to Lessor as follows: (i) the representations and warranties in the Lease are true and correct as of the Acceptance Date; (ii) the Equipment is covered by insurance in the types and amounts required by the Lease; (iii) no Event of Default or Non-Appropriation, as those terms are defined in the Lease, and no event that with the giving of notice or lapse of time or both, would become an Event of Default or a Non-Appropriation, has occurred and is continuing on the date hereof; and (iv) sufficient funds have been appropriated by Lessee for the payment of all Rental Payments due under the Lease during Lessee's current Fiscal Year.

3. Lessee hereby authorizes and directs Lessor to fund the acquisition cost of the Equipment by paying, or directing the payment by the Escrow Agent (if applicable) of, the invoice prices to the Vendor(s), in each case as set forth above, or by reimbursing Lessee in the event such invoice prices have been previously paid by Lessee.

IF REQUEST IS FINAL REQUEST, CHECK HERE ☐. 4. **Final Acceptance Certificate.** The undersigned hereby certifies that the items of Equipment described above, together with the items of Equipment described in and accepted by Certificates of Acceptance and Disbursement Requests previously filed by Lessee with Lessor constitute all of the Equipment subject to the Lease. Lessee certifies that upon payment in accordance with paragraph 3 above, or direction to the Escrow Agent (if applicable) to make payment, Lessor shall have fully and satisfactorily performed all of its covenants and obligations under the Lease.

Accepted and certified this ____ day of _____, 20___. ("Acceptance Date")

CITY OF COTTONWOOD, as Lessee

By: _____

Name: Jesus "Rudy" Rodrigues

Title: Administrative Services General Manager

ANNEX I TO ACCEPTANCE CERTIFICATE

Payee	Vendor/ Manufacturer	Invoice or PO No.	VIN or MSN	Equipment Description	Location	Cost

EXHIBIT C-1

INSURANCE CERTIFICATION

In connection with Equipment Schedule 001 dated November 30, 2016 to that certain Master Equipment Lease-Purchase Agreement dated November 30, 2016, City of Cottonwood, as lessee (the "*Lessee*") certifies that it has instructed the insurance agent named below (please fill in name, address, and telephone number):

Name of Agent: AZ Municipal Risk Retention Pool
Contact Person: _____
Address: _____
Phone: _____
E-mail: _____
to issue: _____

Liability Insurance. Lessee is required to maintain public liability insurance, personal injury and property damage with minimum policy limits of \$1,000,000/occurrence and \$5,000,000/aggregate. The policy should be endorsed to name Signature Public Funding Corp., a wholly-owned subsidiary of Signature Bank, and its successors and assigns as additional insured's.

Casualty Insurance. Lessee is required to maintain all risk extended coverage, malicious mischief and vandalism insurance for the Equipment described in the above-referenced Equipment Schedule in an amount not less than the greater of \$1,218,626.64 or the full replacement cost of the Equipment. Such insurance shall be endorsed to name Signature Public Funding Corp., a wholly-owned subsidiary of Signature Bank, and its successors and assigns as loss payees with respect to such Equipment.

The required insurance should also be endorsed to give Signature Public Funding Corp. at least 30 days prior written notice of the effective date of any material alteration or cancellation of coverage, and an endorsement confirming that the interest of Signature Public Funding Corp. shall not be invalidated by any actions, inactions, breach of warranty or conditions or negligence of Lessee.

Proof of insurance coverage will be provided to Signature Public Funding Corp. prior to and/or commensurate with the: **the release of any funds from the Escrow Account**. Proof of coverage will be mailed to: Signature Public Funding Corp., Attn: Mike Furnari at 600 Washington Avenue, Suite 305, Towson, MD 21204 or sent via e-mail to mfurnari@signatureny.com.

Very truly yours,

CITY OF COTTONWOOD, as Lessee

By: _____
Name: Jesus "Rudy" Rodrigues
Title: Administrative Services General Manager

EXHIBIT C-2

SELF-INSURANCE RIDER AND LESSOR CONSENT

Signature Public Funding Corp.
600 Washington Avenue, Suite 305
Towson, Maryland 21204

November 30, 2016

Re: Schedule No. 001 dated November 30, 2016 to that certain Master Equipment
Lease-Purchase Agreement dated November 30, 2016 (collectively, the "Lease")

In connection with the above-referenced Lease, City of Cottonwood, as lessee (the "*Lessee*") certifies that it participates in an actuarially sound self-insurance program for property damage and public liability risks. The Self-Insurance Questionnaire attached hereto is true and correct, and no Event of Default or Non-Appropriation, as such terms are defined in the Lease, has occurred and is continuing.

The following is attached (check all that apply):

- ☐ Letter from risk manager describing self-insurance program
- ☐ Other evidence of Lessee's participation in self-insurance program

Signature Public Funding Corp., as lessor (the "*Lessor*") agrees that the self-insurance program as described by Lessee in this Certificate and the attached Questionnaire and related documents is acceptable in lieu of the coverage for property damage and public liability risks required under the Lease, including §13 of the Master.

CITY OF COTTONWOOD,
as Lessee

SIGNATURE PUBLIC FUNDING CORP.,
as Lessor

By: _____
Name: Jesus "Rudy" Rodrigues
Title: Administrative Services General Manager

By: _____
Name: Donald S. Keough
Title: Senior Managing Director

EXHIBIT C-3

QUESTIONNAIRE FOR SELF-INSURANCE TO SELF-INSURANCE RIDER AND LESSOR CONSENT

To and part of that Self-Insurance Rider and Lessor Consent to Equipment Schedule No. 001 dated as of November 30, 2016 to that certain the Master Lease Agreement dated November 30, 2016 (collectively, the "Lease"). The terms capitalized herein but not defined herein shall have the meanings assigned to them in the Lease.

1. *Property Insurance.*

- a. Lessee is self-insured for damage or destruction to the Equipment.

YES NO (circle one)

If yes, the dollar amount limit for property damage to the Equipment under the Lessee's self-insurance program is \$_____.

- b. The Lessee maintains an umbrella insurance policy for claims in excess of Lessee's self-insurance limits for property damage to the Equipment as indicated above.

YES NO (circle one)

If yes, the umbrella policy provides coverage for all risk property damage.

YES NO (circle one)

If yes, the dollar limit for property damage to the Equipment under such umbrella policy is \$_____.

2. *Liability Insurance.*

- a. Lessee is self-insured for liability for injury or death of any person or damage or loss of property arising out of or relating to the condition or operation of the Equipment.

YES NO (circle one)

If yes, the dollar limit for such liability claims under the Lessee's self-insurance program is \$_____.

- b. The Lessee maintains an umbrella insurance policy for claims in excess of Lessee's self-insurance limits for liability including injury or death of persons or damage to property as indicated above.

YES NO (circle one)

If yes, the umbrella policy provides coverage for liabilities for injury and death to persons as well as damage or loss of property arising out of or relating to the condition or operation of the Equipment.

YES NO (circle one)

If yes, the dollar amount of the umbrella policy's limits for such liability coverage is \$_____.

3A. *Self Insurance Fund.*

- a. Lessee maintains a self-insurance fund.

YES NO (circle one)

If yes, please complete the following:

Monies in the self-insurance fund are subject to annual appropriation.

YES NO (circle one)

The total amount maintained in the self-insurance fund to cover Lessee's self-insurance liabilities is \$_____.

- b. Amounts paid from the Lessee's self-insurance fund are subject to limitations for each claim.

YES NO (circle one)

If yes, the dollar amount of limit per claim is \$_____.

3B. No Self Insurance Fund.

- a. If Lessee does not maintain a self-insurance fund, please complete the following:
Lessee obtains funds to pay claims for which it has self-insured from the following sources:

- b. The limitations on the amounts payable for claims from the above sources are as follows:

4. Authority.

- a. The following entity or officer has authority to authorize payment for claim:
- b. In the event the entity or officer named in the prior response denies payment of a claim, does the claimant have recourse to another administrative officer, agency or the courts?

YES NO (circle one)
If yes, to whom does the claimant have recourse?

5. Certificates of Insurance.

Attached hereto are copies of certificates of insurance with respect to policies maintained by Lessee.

EXHIBIT D

ESSENTIAL USE CERTIFICATE

November 30, 2016

Signature Public Funding Corp.
600 Washington Avenue, Suite 305
Towson, Maryland 21204

Re: Equipment Schedule No. 001 dated November 30, 2016 to that certain
Master Equipment Lease-Purchase Agreement dated November 30, 2016

I, Jesus "Rudy" Rodrigues appointed, or designated representative of and Administrative Services General Manager of the City of Cottonwood, as lessee (the "*Lessee*"), is qualified to answer the questions set forth below regarding the Equipment to be acquired by Lessee in connection with the above-referenced Lease Agreement:

1. *What is the specific use of the Equipment?*
2. *What increased capabilities will the Equipment provide?*
3. *Why is the Equipment essential to your ability to deliver governmental services?*
4. *Does the Equipment replace existing equipment?*
(If so, please explain why you are replacing the existing equipment)
5. *Why did you choose this specific Equipment?*
6. *For how many years do you expect to utilize the Equipment?*

Very truly yours,
CITY OF COTTONWOOD, as Lessee

By: _____
Name: Jesus "Rudy" Rodrigues
Title: Administrative Services General Manager

EXHIBIT E

INCUMBENCY CERTIFICATE

I, Marianne Jimenez, do hereby certify that I am the _____ of the City of Cottonwood, which is a body corporate and politic duly established and validly existing as a political subdivision of the State under the Constitution and laws of the State, and that I have custody of the records of such entity.

I hereby certify that, as of the date hereof, the individuals named below are the duly elected or appointed officers of the District holding the offices set forth opposite their respective names. I further certify that:

- (i) The signatures set opposite their respective names and titles are their true and authentic signatures, and
- (ii) Such officers have the authority on behalf of such entity to:
 - a. Enter into that certain Equipment Schedule No. dated November 30, 2016 to that certain Master Equipment Lease-Purchase Agreement dated November 30, 2016 (collectively, the "*Lease Agreement*"), between the City of Cottonwood and Signature Public Funding Corp., as lessor, and
 - b. Enter into that certain Escrow Fund and Account Control Agreement dated November 30 2016 (the "*Escrow Agreement*"); and
 - c. Execute Certificates of Acceptance, Disbursement Request Forms, and all other certificates documents, and agreements relating to the Lease Agreement and Escrow Agreement.

NAME	TITLE	SIGNATURE
Jesus "Rudy" Rodrigues	Administrative Services General Manager	_____

IN WITNESS WHEREOF, I have duly executed this Certificate on behalf of the CITY OF COTTONWOOD.

November 30, 2016

Marianne Jimenez

EXHIBIT F

OPINION OF LESSEE'S COUNSEL

November 30, 2016

Signature Public Funding Corp.
600 Washington Avenue, Suite 305
Towson, Maryland 21204

Re: Equipment Schedule No. 001 dated November 30, 2016 to that certain
Master Equipment Lease-Purchase Agreement dated November 30, 2016

Ladies and Gentlemen:

As counsel to the City of Cottonwood (the "*Lessee*"), I have examined the Master Equipment Lease-Purchase Agreement dated [Date] and Equipment Schedule No. 001 thereto dated November 30, 2016 (collectively, the "*Lease Agreement*"), between the Lessee and Signature Public Funding Corp., as lessor ("*Lessor*"), the Escrow Fund and Account Control Agreement dated November 30, 2016, together the Disbursement Request Form and Certificate of Acceptance (collectively, the "*Escrow Agreement*"), and the proceedings taken by the Governing Body of the Lessee to authorize on behalf of the Lessee the execution and delivery of the Lease Agreement and the Escrow Agreement. The Lease Agreement and the Escrow Agreement are herein collectively referred to as the "*Transaction Documents*." Based upon the foregoing examination and upon an examination of such other documents and matters of law as I have deemed necessary or appropriate, I am of the opinion that:

1. The Lessee is a [describe entity type], which is a body corporate & politic duly established and validly existing as a political subdivision of the State of AZ under the Constitution and laws of the State of AZ with full power and authority to enter into the Transaction Documents.

2. The Transaction Documents have each been duly authorized, executed, and delivered by the Lessee and are in full compliance with all local, state and federal laws. Assuming due authorization, execution and delivery thereof by Lessor, the Transaction Documents constitute legal, valid, and binding obligations of the Lessee, enforceable against the Lessee in accordance with their respective terms, subject to any applicable bankruptcy, insolvency, moratorium or other laws or equitable principles affecting the enforcement of creditors' rights generally. The execution of the Transaction Documents and the appropriation of monies due under the Lease Agreement will not result in the violation of any constitutional, statutory or limitation relating to the manner, form or amount of indebtedness which may be incurred by the Lessee.

3. The Equipment to be leased pursuant to the Lease Agreement constitutes personal property and, when subjected to use by the Lessee, will not be a fixture under applicable law.

4. The Lessee has complied with all applicable statutes, laws, rules, regulations, notice and public bidding requirements, including, without limitation, [insert statutes if applicable], in connection with the Transaction Documents and the transactions contemplated thereby. The resolution adopted by the Governing Body of the Lessee authorizing the execution and delivery of the Transaction Documents and certain other matters was adopted at a meeting that was held in compliance with all applicable laws relating to the holding of open and public meetings. No approval, consent or withholding of objections is required from any State, federal or local governmental authority or instrumentality with respect to the entry into or performance by Lessee of its obligations under the Transaction Documents, except as have already been obtained.

5. No litigation or proceeding is pending or, to the best of my knowledge, threatened to restrain or enjoin the execution, delivery, or performance by the Lessee of the Transaction Documents or in any way to contest the validity of the Transaction Documents, to contest or question the creation or existence of the Lessee or the governing body of the Lessee or the authority or ability of the Lessee to execute or deliver the Transaction Documents or to

comply with or perform its obligations thereunder. There is no litigation pending or, to the best of my knowledge, threatened seeking to restrain or enjoin the Lessee from annually appropriating sufficient funds to pay the rental payments or other amounts contemplated by the Lease Agreement. The entering into and performance of the Transaction Documents do not and will not violate any judgment, order, law, or regulation applicable to the Lessee or result in any breach of, or constitute a default under, or result in the creation of any lien, charge, security interest, or other encumbrance upon any assets of the Lessee or on the Equipment (as such term is defined in the Lease Agreement) pursuant to any indenture, mortgage, deed of trust, bank loan or credit agreement, or other instrument to which the Lessee is a party or by which it or its assets may be bound.

6. The Lessee has covenanted to comply with any continuing requirements that may be necessary to preserve the exclusion from gross income for purposes of federal income taxation under the Internal Revenue Code of 1986, as amended ("Code"), of the portion of the Rental Payments designated as interest. In the event that the Lessee continuously complies with its covenants under the Transaction Documents and so long as the amounts payable to the Lessor are derived from the Rental Payments made by the Lessee, the portion of the Rental Payments designated as interest is not includible in gross income for federal income tax purposes under the current law. No opinion is expressed as to the tax treatment of payments made to the Lessor from sources other than from Rental Payments made by the Lessee. The Lease Agreement and the obligation to pay Rental Payments thereunder as represented by the Lease Agreement are not "specified private activity bonds" as such term is defined in the Code and the portion of the Rental Payments designated as interest is not includible as an item of tax preference under Section 57 of the Code for purposes of computing the alternative minimum tax. However, the portion of Rental Payments designated as interest and received by the Lessor may be subject to an alternative minimum tax. Except as set forth in paragraphs 6, we express no opinion regarding other federal tax consequences arising with respect to the Lease Agreement.

This opinion may be relied upon by purchasers and assignees of Lessor's interests in the Lease Agreement.

Respectfully submitted,

EXHIBIT G

BANK-QUALIFIED DESIGNATION

RESERVED

EXHIBIT H

TAX & ARBITRAGE CERTIFICATE

Dated: November 30, 2016

The following certificate is delivered in connection with the execution and delivery of Equipment Schedule No. 001 dated November 30, 2016 to that certain Master Equipment Lease-Purchase Agreement dated November 30, 2016 (collectively, the "Lease Agreement"), entered into between the City of Cottonwood (the "Lessee") and Signature Public Funding Corp. (the "Lessor"). Capitalized terms used herein have the meanings defined in the Lease Agreement.

Section 1. In General.

1.1. This Certificate is executed for the purpose of establishing the reasonable expectations of Lessee as to future events regarding the financing of certain equipment (the "Equipment") to be acquired by Lessor and leased to Lessee pursuant to and in accordance with the Equipment Schedule executed under the Agreement (together with all related documents executed pursuant thereto and contemporaneously herewith, the "Financing Documents"). As described in the Financing Documents, Lessor shall apply **\$1,194,732.00** (the "Principal Amount") toward the acquisition of the Equipment and closing costs, and Lessee shall make Rental Payments under the terms and conditions as set forth in the Financing Documents.

1.2. The individual executing this Certificate on behalf of Lessee is an officer of Lessee delegated with the responsibility of reviewing and executing the Financing Documents, pursuant to the resolution or other official action of Lessee adopted with respect to the Financing Documents, a copy of which has been delivered to Lessor.

1.3. The Financing Documents are being entered into for the purpose of providing funds for financing the cost of acquiring, equipping and installing the Equipment which is essential to the governmental functions of Lessee, which Equipment is described in the Equipment Schedule. The Principal Amount will be deposited in escrow by Lessor on the date of issuance of the Financing Documents and held by **Signature Bank**, as escrow agent (the "Escrow Agent") pending acquisition of the Equipment under the terms of that certain Escrow Agreement dated as of November 30, 2016 (the "Escrow Agreement"), by and between Lessor and Escrow Agent.

1.4 Lessee will timely file for each payment schedule issued under the Lease a Form 8038-G (or, if the invoice price of the Equipment under such schedule is less than \$100,000, a Form 8038-GC) relating to such Lease with the Internal Revenue Service in accordance with Section 149(e) of the Internal Revenue Code of 1986, as amended (the "Code").

Section 2. Non-Arbitrage Certifications.

2.1. The Rental Payments due under the Financing Documents will be made with monies retained in Lessee's general operating fund (or an account or subaccount therein). No sinking, debt service, reserve or similar fund or account will be created or maintained for the payment of the Rental Payments due under the Financing Documents or pledged as security therefor.

2.2. There have been and will be issued no obligations by or on behalf of Lessee that would be deemed to be (i) issued or sold within fifteen (15) days before or after the date of issuance of the Financing Documents, (ii) issued or sold pursuant to a common plan of financing with the Financing Documents and (iii) paid out of substantially the same source of funds as, or deemed to have substantially the same claim to be paid out of substantially the same source of funds as, the Financing Documents.

2.3. Lessee does not and will not have on hand any funds that are or will be restricted, segregated, legally required or otherwise intended to be used, directly or indirectly, as a substitute, replacement or separate source of financing for the Equipment.

2.4. No portion of the Principal Amount is being used by Lessee to acquire investments which produce a yield materially higher than the yield realized by Lessor from Rental Payments received under the Financing Documents.

2.5. The Principal Amount does not exceed the amount necessary for the governmental purpose for which the Financing Documents were entered into. Such funds are expected to be needed and fully expended for payment of the costs of acquiring, equipping and installing the Equipment.

2.6. Lessee does not expect to convey, sublease or otherwise dispose of the Equipment, in whole or in part, at a date which is earlier than the final Payment Date under the Financing Documents.

Section 3. Disbursement of Funds; Reimbursement to Lessee.

3.1 It is contemplated that the entire Principal Amount will be used to pay the acquisition cost of Equipment to the Vendors or manufacturers thereof or for any financial advisory or closing costs, provided that, if applicable, a portion of the principal amount may be paid to Lessee as reimbursement for acquisition cost payments already made by it so long as the conditions set forth in Section 3.2 below are satisfied.

3.2. Lessee shall not request that it be reimbursed for Equipment acquisition cost payments already made by it unless each of the following conditions have been satisfied:

(a) Lessee adopted a resolution or otherwise declared its official intent in accordance with Treasury Regulation § 1.150-2 (the "Declaration of Official Intent"), wherein Lessee expressed its intent to be reimbursed from the proceeds of a borrowing for all or a portion of the cost of the Equipment, which expenditure was paid to the Vendor not earlier than sixty (60) days before Lessee adopted the Declaration of Official Intent;

(b) The reimbursement being requested will be made by a written allocation before the later of eighteen (18) months after the expenditure was paid or eighteen (18) months after the items of Equipment to which such payment relates were placed in service;

(c) The entire payment with respect to which reimbursement is being sought is a capital expenditure, being a cost of a type properly chargeable to a capital account under general federal income tax principles; and

(d) Lessee will use any reimbursement payment for general operating expenses and not in a manner which could be construed as an artifice or device under Treasury Regulation § 1.148-10 to avoid, in whole or in part, arbitrage yield restrictions or arbitrage rebate requirements.

Section 4. Use and Investment of Funds; Temporary Period.

4.1. Lessee has incurred or will incur, within six (6) months from the date of issuance of the Financing Documents, binding obligations to pay an amount equal to at least five percent (5%) of the Principal Amount toward the costs of the Equipment. An obligation is not binding if it is subject to contingencies within Lessee's control. The ordering and acceptance of the items of Equipment will proceed with due diligence to the date of final acceptance of the Equipment.

4.2. An amount equal to at least eighty-five percent (85%) of the Principal Amount will be expended to pay the cost of the Equipment by the end of the three-year period commencing on the date of this Certificate. No portion of the Principal Amount will be used to acquire investments that do not carry out the governmental purpose of the Financing Documents and that have a substantially guaranteed yield of four (4) years or more.

4.3. (a) Lessee covenants and agrees that it will rebate an amount equal to excess earnings on the Principal Amount deposited under the Escrow Agreement to the Internal Revenue Service if required by, and in accordance with, Section 148(f) of the Code, and make the annual determinations and maintain the records required by and otherwise comply with the regulations applicable thereto. Lessee reasonably expects to cause the Equipment to be acquired by May 30, 2017, but not later than May 30, 2018 ie 18 months from funding date).

(b) Lessee will provide evidence to Lessor that the rebate amount has been calculated and paid to the Internal Revenue Service in accordance with Section 148(f) of the Code unless (i) the entire Principal Amount is expended on the Equipment by the date that is the six-month anniversary of the Financing Documents or (ii) the Principal Amount is expended on the Equipment in accordance with the following schedule: At least fifteen percent (15%) of the Principal Amount and interest earnings thereon will be applied to the cost of the Equipment within six months from the date of issuance of the Financing Documents; at least sixty percent (60%) of the Principal Amount and interest earnings thereon will be applied to the cost of the Equipment within 12 months from the date of issuance of the Financing Documents; and one hundred percent (100%) of the Principal Amount and interest earnings thereon will be applied to the cost of the Equipment prior to eighteen (18) months from the date of issuance of the Financing Documents.

(c) Lessee hereby covenants that (i) Lessee is a governmental unit with general tax powers; (ii) the Lease is not a "private activity bond" under Section 141 of the Code; and (iii) at least ninety-five percent (95%) of the Principal Amount is used for the governmental activities of Lessee.

Section 5. Escrow Account.

The Financing Documents provide that the monies deposited in escrow shall be invested until payments to the Vendor(s) or manufacturer(s) of the Equipment are due. Lessee will ensure that such investment will not result in Lessee's obligations under the Financing Documents being treated as an "arbitrage bond" within the meaning of Section 148(a) of the Internal Revenue Code of 1986, as amended (the "Code"), respectively. Any monies which are earned from the investment of these funds shall be labeled as interest earned. All such monies will be disbursed on or promptly after the date that Lessee accepts the Equipment. Lessee acknowledges that the provisions of Sections 2 and 4 herein are particularly applicable when the Principal Amount is funded into an Escrow Fund subject to the Escrow Agreement.

Section 6. No Private Use; No Consumer Loan.

6.1. Lessee will not exceed the private use restrictions set forth in Section 141 of the Code. Specifically, Lessee will not permit more than 10% of the Principal Amount to be used for a Private Business Use (as defined herein) if, in addition, the payment of more than ten percent (10%) of the Principal Amount plus interest earned thereon is, directly or indirectly, secured by (i) any interest in property used or to be used for a Private Business Use or (ii) any interest in payments in respect of such property or derived from any payment in respect of property or borrowed money used or to be used for a Private Business Use.

6.2 In addition, if both (A) more than five percent (5%) of the Principal Amount is used as described above with respect to Private Business Use and (B) more than five percent (5%) of the Principal Amount plus interest earned thereon is secured by Private Business Use property or payments as described above, then the excess over such five percent (5%) (the "Excess Private Use Portion") will be used for a Private Business Use related to the governmental use of the Equipment. Any such Excess Private Use Portion of the Principal Amount will not exceed the portion of the Principal Amount used for the governmental use of the particular project to which such Excess Private Use Portion is related. For purposes of this paragraph 6.3, "Private Business Use" means use of bond proceeds or bond financed-property directly or indirectly in a trade or business carried on by a natural person or in any activity carried on by a person other than a natural person, excluding, however, use by a state or local governmental unit and excluding use as a member of the general public.

6.4. No part of the Principal Amount or interest earned thereon will be used, directly or indirectly, to make or finance any loans to non-governmental entities or to any governmental agencies other than Lessee.

Section 7. No Federal Guarantee.

7.1. Payment of the principal or interest due under the Financing Documents is not directly or indirectly guaranteed, in whole or in part, by the United States or an agency or instrumentality thereof.

7.2. No portion of the Principal Amount or interest earned thereon shall be (i) used in making loans the payment of principal or interest of which are to be guaranteed, in whole or in part, by the United States or any agency or instrumentality thereof, or (ii) invested, directly or indirectly, in federally insured deposits or accounts if such investment would cause the financing under the Financing Documents to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

Section 8. Miscellaneous.

8.1. Lessee shall keep a complete and accurate record of all owners or assignees of the Financing Documents in form and substance satisfactory to comply with the registration requirements of Section 149(a) of the Code unless Lessor or its assignee agrees to act as Lessee's agent for such purpose.

8.2. Lessee shall maintain complete and accurate records establishing the expenditure of the Principal Amount and interest earnings thereon for a period of five (5) years after payment in full under the Financing Documents.

8.3. To the best of the undersigned's knowledge, information and belief, the above expectations are reasonable and there are no other facts, estimates or circumstances that would materially change the expectations expressed herein.

8.4. The Lessee confirms and acknowledges that its true and correct tax identification number is: 86-6007877 and full, true and correct legal name is "City of Cottonwood." Lessee confirms that it is located in County of Yavapai, State of AZ.

8.5 The Lessee has adopted, by resolution, separate written procedures regarding ongoing compliance with federal tax requirements necessary to keep, ensure and maintain the interest portions of the Rental Payments under the Financing Documents as excluded from Lessor's gross income for federal income tax purposes, and will, on an annual basis, conduct an audit of the Financing Documents to ensure compliance with such procedures.

IN WITNESS WHEREOF, this Tax & Arbitrage Certificate has been executed on behalf of Lessee as of November 30, 2016.

CITY OF COTTONWOOD

By: _____
Name: Jesus "Rudy" Rodrigues
Title: Administrative Services General Manager

EXHIBIT I:

ESCROW FUND AND ESCROW AGREEMENT

FORM OF RESOLUTION

RESOLUTION NO. [] OF THE GOVERNING BODY OF THE CITY OF COTTONWOOD, AUTHORIZING, PURSUANT TO THE [INSERT STATUTE] (COLLECTIVELY, "AUTHORIZING LAW"), THE INCURRING OF LEASE OBLIGATIONS IN ANY AMOUNT NOT TO EXCEED \$1,194,732.00 TO BE EVIDENCED BY THE EXECUTION AND DELIVERY OF A MASTER EQUIPMENT LEASE-PURCHASE AGREEMENT, AN ESCROW AGREEMENT AND AN EQUIPMENT SCHEDULE WITH RESPECT TO THE ACQUISITION, PURCHASE, FINANCING, AND LEASING OF CERTAIN EQUIPMENT FOR THE PUBLIC BENEFIT; AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS REQUIRED IN CONNECTION THEREWITH; AND AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED BY THIS RESOLUTION.

WHEREAS, the City of Cottonwood (the "*Lessee*"), a body politic and corporate duly organized and existing as a political subdivision of the State of [state], is authorized by the laws of the State of [state] to purchase, acquire, and lease personal property for the benefit of the Lessee and those it provides services to and to enter into contracts with respect thereto;

WHEREAS, the Lessee desires to purchase, acquire and lease certain equipment constituting personal property necessary for the Lessee to perform essential governmental functions; including without limitation various Police and Rescue vehicles and equipment purchased from [] vendors if known, otherwise modify resolution and all other equipment Lessee or its Designated Officers may deem necessary and/or desirable (the "*Equipment*") in an amount not more than \$1,194,732.00, and the Lessee hereby finds and determines that the realistic estimated useful life of the Equipment is at least Five years

WHEREAS, in order to acquire such Equipment, the Lessee proposes to enter into a Master Equipment Lease Purchase Agreement dated as of [Date] (together with the Equipment Schedule dated as of November 30, 2016 and all related exhibits, schedules, and certificates attached thereto, the "*Lease Agreement*") with Signature Public Funding Corp. (the "*Lessor*") and one Escrow Agreement (together the Disbursement Request Form and Acceptance Certificate, the "*Escrow Agreement*", and together with the Lease Agreement, the "*Transaction Documents*") with the Lessor and Signature Bank, as escrow agent, the forms of which have been presented to the Governing Body of the Lessee at this meeting;

WHEREAS, the Governing Body of the Lessee deems it for the benefit of the Lessee and for the efficient and effective administration thereof to enter into the Transaction Documents for the purchase, acquisition, and leasing of the Equipment to be therein described on the terms and conditions therein provided;

NOW, THEREFORE, BE IT RESOLVED AND ENACTED by the Governing Body of the City of Cottonwood as follows:

Section 1. Approval of Documents. The Governing Body of the Lessee hereby approves the form, terms and provisions of the Transaction Documents in substantially the forms presented to this meeting and authorizes and directs [Name], the [Title], and [Name], the [Title], [Insert other names and titles as desired and/or necessary—should match names on incumbency certificate] of the City of Cottonwood, and such other persons as he/she/they may delegate (the "*Designated Officers*"), and each of them individually, for and in the name of and on behalf of the Lessee, to execute, attest, seal, and deliver the Transaction Documents, and any related Certificate, Exhibits, or other documents attached thereto substantially in such forms as presented herewith, together with such changes, modification, negotiations, insertions, revisions, corrections, or amendments as shall be approved by the officer executing them. The execution of the foregoing by a Designated Officer shall constitute conclusive evidence of such officer's and the Governing Body's approval of any such changes, insertions, revisions, corrections, negotiations, or amendments to the respective forms of agreements presented to this meeting.

Section 2. Other Actions Authorized. The officers and employees of the Lessee shall take all action necessary or reasonably required by the parties to the Transaction Documents to carry out, give effect to, and consummate the transactions contemplated thereby (including the execution and delivery of Certificates of Acceptance and Disbursement/Payment Requests, Notice and Acknowledgements of Assignments, and any tax certificate and agreement, each with respect to and as contemplated in the Agreement and/or Escrow Agreement) and to take all action necessary in conformity therewith, including, without limitation, the execution and delivery of any closing and other documents required to be delivered in connection with the Transaction Documents. The Designated Officers and all other officers and employees of the Lessee are hereby directed and authorized to take and shall take all action necessary or reasonably required in order to select, purchase, and take delivery of the Equipment. All actions heretofore taken by officers, employees, and agents of the Lessee that are in conformity with the purposes and intent of this resolution are hereby approved, confirmed, and ratified.

Section 3. No General Liability. Nothing contained in this Resolution No. [REDACTED], the Transaction Documents, nor any other instrument shall be construed with respect to the Lessee as incurring a pecuniary liability or charge upon the general credit of the Lessee or against its taxing power, nor shall the breach of any agreement contained in this Resolution No. [REDACTED], the Transaction Documents, or any other instrument or document executed in connection therewith impose any pecuniary liability upon the Lessee or any charge upon its general credit or against its taxing power, payable from the general and current revenues of the Lessee/except to the extent that the rental payments payable under the Transaction Documents are special limited obligations of the Lessee as provided therein.

Section 4. Appointment of Authorized Lessee Representatives. The Designated Officers are each hereby designated to act as authorized representatives of the Lessee for purposes of the Transaction Documents until such time as the Governing Body of the Lessee shall designate any other or different authorized representative for purposes of the Transaction Documents.

Section 5. Severability. If any section, paragraph, clause, or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Resolution No. [REDACTED].

Section 6. Repealer. All bylaws, orders, and resolutions or parts thereof, inconsistent herewith, are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed as reviving any bylaw, order, resolution, or ordinance or part thereof.

Section 7. Reserved.

Section 8. Effective Date. This Resolution [REDACTED] shall be effective immediately upon its approval and adoption.

The foregoing Resolution was duly passed and adopted at a meeting of the [Town Council] (the "Governing Body") of City of Cottonwood held November 30, 2016, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Presiding Officer

ATTEST:

By: _____
Marianne Jimenez

CLOSING MEMORANDUM

**\$1,194,732.00 LEASE OF POLICE AND RESCUE VEHICLES AND EQUIPMENT
PURSUANT TO SCHEDULE NO. 001 DATED NOVEMBER 30, 2016 TO THAT CERTAIN
MASTER EQUIPMENT LEASE-PURCHASE AGREEMENT DATED NOVEMBER 30, 2016 BETWEEN
CITY OF COTTONWOOD, AS LESSEE, AND
SIGNATURE PUBLIC FUNDING CORP., AS LESSOR**

Pre-Closing: All documents will be executed and two (2) blue ink originals will be overnighted to Signature Public Funding Corp., Attn: Ms. Mike Furnari, 600 Washington Avenue, Suite 305, Towson, Maryland 21204, for delivery no later than 9:00 am on the morning of November 30, 2016 and held in trust until such time as the wires and original documents are released by the Parties.

Closing: By wire transfer and pending receipt of original, executed Lease Documents, on the morning of November 30, 2016, Lessor is authorized by Lessee to wire the following Total Lease Proceeds as defined below, pursuant to the Wire Instructions as follows:

Bank Name:	Signature Bank
ABA No:	026013576
Account No:	_____
Account Name:	_____
F/B/O:	_____
Attn:	_____
Amount of Wire:	<u>\$1,194,232.00</u>
Reference:	_____

Issuance Costs Legal/Doc Costs: \$500.00

TOTAL LEASE PROCEEDS: \$1,194,732.00

and each of the Parties will confirm by e-mail receipt of funds and then the release of all original documents held in trust, when such funds and/or documents are in the possession of each of the Parties. Lessor is further authorized by the Lessee to retain the Legal/Doc Fees after the Total Equipment Cost has been wired.

CITY OF COTTONWOOD

By: _____
Name: Jesus "Rudy" Rodrigues
Title: Administrative Services General Manager

ESCROW DEPOSIT AGREEMENT

This **ESCROW DEPOSIT AGREEMENT** (this “**Agreement**”) dated as of this 30th day of November, 2016 by and among Signature Public Funding Corp. (“**Lessor**”), a New York corporation, having an address at 600 Washington Avenue, Suite 305, Towson, Maryland 21204, City Of Cottonwood (“**Lessee**”), a political subdivision of the State of AZ, having an office at 816 North Main street, Cottonwood, AZ 86326 and **SIGNATURE BANK** (the “**Escrow Agent**”), a New York state-chartered commercial bank and having an office at Signature Bank, 75 Holly Hill Lane, Greenwich, CT 06830.

WITNESSETH:

WHEREAS, Lessee and Lessor have entered into that certain Equipment Schedule No. 001 dated as of November 30, 2016 to that certain Master Equipment Lease-Purchase Agreement dated as of November 30, 2016 (together with all other documents, certificates, exhibits and related documentation therewith, collectively, the “**Lease**”); and

WHEREAS, the Lessor has made a loan to Lessee in the form of “**Lease Proceeds**,” which are to be used to pay various costs associated with the Lease and to acquire certain items of Equipment (as such term is defined in the Lease); and

WHEREAS, Lessor and Lessee have agreed that all or a portion of the Lease Proceeds shall be held in escrow upon certain terms and conditions; and

WHEREAS, Lessor and Lessee appoint the Escrow Agent as escrow agent of such escrow subject to the terms and conditions set forth in this Agreement; and

WHEREAS, the Escrow Agent accepts such appointment as escrow agent subject to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, IT IS AGREED as follows:

1. Delivery of Escrow Funds.

(a) Upon execution of the Lease and delivery of all documents and completion of all conditions precedent in the Lease, the Lessor will deliver, or shall cause to be delivered, to the Escrow Agent checks, internal transfers or wire transfers equal to the Initial Deposit Amount (as set forth on Schedule A hereto) and made payable to “Signature Bank as Escrow Agent” for the benefit of Lessor and Lessee to be held in an account at Signature Bank entitled “City Of Cottonwood Lease Schedule 001, Signature Bank, as Escrow Agent” having ABA No. 026013576, Account No. [REDACTED] (the “**Escrow Account**”).

(b) The Initial Deposit Amount that consists of good and indefeasible collected funds that are deposited into the Escrow Account is referred to as the “**Escrow Funds**”.

(c) The Escrow Agent shall have no duty or responsibility to enforce the collection or demand payment of these checks or any other funds delivered to Escrow Agent for deposit into the Escrow Account. If, for any reason, these checks or any other funds deposited into the Escrow Account shall be returned unpaid to the Escrow Agent, the sole duty of the Escrow Agent shall be to advise Lessor and Lessee promptly thereof and return check in the manner directed in writing by Lessor and Lessee.

2. Release of Escrow Funds. (a) The Escrow Funds shall be paid by the Escrow Agent in accordance with the instructions, in form and substance satisfactory to the Escrow Agent, received from Lessor and Lessee, in all cases subject to Lessor approval and subject to delivery of those items set forth in Section 2(b) herein, or in accordance with Lessor's instructions delivered pursuant to Section 6 herein, or in absence of such instructions in accordance with the order of a court of competent jurisdiction. The Escrow Agent shall not be required to pay any uncollected funds or any funds that are not available for withdrawal. The Escrow Agent may act in reliance upon any instructions, court orders, notices, certifications, demands, consents, authorizations, receipts, powers of attorney or other writings delivered to it without being required to determine the authenticity or validity thereof or the correctness of any fact stated therein, the propriety or validity of the service thereof, or the jurisdiction of the court issuing any judgment or order. The Escrow Agent may act in reliance upon any signature believed by it to be genuine, and may assume that such person has been properly authorized to do so.

(b) Upon receipt of a Payment Request Form (in substantially the form as set forth on Schedule B hereto) executed by Lessor and Lessee, an amount equal to the Acquisition Cost as shown therein shall be paid directly by Escrow Agent to the person or entity entitled to payment as specified therein. Although the Payment Request Form may have schedules, invoices and other supporting documents attached to it, Lessor will send to Escrow Agent only the page or pages showing the signatures of Lessor and Lessee, the Acquisition Cost and related payment information, without such schedules, invoices or other supporting documentation. Escrow Agent may act and rely upon the signed Payment Request Form without the need to review or verify any such schedules, invoices or other supporting documentation.

3. Acceptance by Escrow Agent. The Escrow Agent hereby accepts and agrees to perform its obligations hereunder, provided that:

(a) The names and true signatures of each individual authorized to act singly on behalf of Lessor and Lessee are stated in Schedule A. The Escrow Agent may act in reliance upon any signature believed by it to be genuine, and may assume that any person who has been designated in Schedule A to give any written instructions, notice or receipt, or make any statements in connection with the provisions hereof has been duly authorized to do so. The Escrow Agent shall have no duty to make inquiry as to the genuineness, accuracy or validity of any statements or instructions or any signatures on statements or instructions. The names and true signatures of each individual authorized to act singly on behalf of Lessor and Lessee are stated in Schedule A, which is attached hereto and made a part hereof. The Lessee and Lessor may each remove or add one or more of its authorized signers stated on Schedule A by notifying the Escrow Agent of such change in accordance with this Agreement, which notice shall include the true signature for any new authorized signatories.

(b) The Escrow Agent may act relative hereto in reliance upon advice of counsel in reference to any matter connected herewith. The Escrow Agent shall not be liable for any mistake of fact or error of judgment or law, or for any acts or omissions of any kind, unless caused by its willful misconduct or gross negligence.

(c) Lessor and Lessee, jointly and severally, agree to indemnify, release, and hold the Escrow Agent harmless from and against any and all claims, losses, costs, liabilities, damages, suits, demands, judgments or expenses, including, but not limited to, attorney's fees, costs and disbursements, (collectively “**Claims**”) claimed against or incurred by Escrow Agent arising out of or related, directly or indirectly, to the Escrow Agreement and the Escrow Agent's performance hereunder or in connection herewith, except to the extent such Claims arise from Escrow Agent's willful misconduct or gross negligence as adjudicated by a court of competent jurisdiction.

(d) In the event of any disagreement between or among Lessor and Lessee, or between any of them and any other person, resulting in adverse claims or demands being made to Escrow Agent in connection with the Escrow Account, or in the event that the Escrow Agent, in good faith, be in doubt as to what action it should take hereunder, the Escrow Agent may, at its option, refuse to comply with any claims or demands on it, or refuse to take any other action hereunder, so long as such disagreement continues or such doubt exists, and in any such event, the Escrow Agent shall not become liable in any way or to any person for its failure or refusal to act, and the Escrow Agent shall be entitled to continue so to refrain from acting until (i) the rights of all parties shall have been fully and finally adjudicated by a court of competent jurisdiction, or (ii) all differences shall have been adjusted and all doubt resolved by agreement among all of the interested persons, and the Escrow Agent shall have been notified thereof in writing signed by all such persons. The Escrow Agent shall have the option, after thirty (30) days' notice to Lessor and Lessee of its intention to do so, to file an action in interpleader requiring the parties to answer and litigate any claims and rights among themselves. The rights of the Escrow Agent under this section are cumulative of all other rights which it may have by law or otherwise.

(e) In the event that the Escrow Agent shall be uncertain as to its duties or rights hereunder, the Escrow Agent shall be entitled to (i) refrain from taking any action other than to keep safely the Escrow Funds until it shall be directed otherwise by a court of competent jurisdiction, or (ii) deliver the Escrow Funds to a court of competent jurisdiction.

(f) The Escrow Agent shall have no duty, responsibility or obligation to interpret or enforce the terms of any agreement other than Escrow Agent's obligations hereunder, and the Escrow Agent shall not be required to make a request that any monies be delivered to the Escrow Account, it being agreed that the sole duties and responsibilities of the Escrow Agent shall be to the extent not prohibited by applicable law (i) to accept checks or other instruments for the payment of money delivered to the Escrow Agent for the Escrow Account and deposit said checks or instruments into the Escrow Account, and (ii) disburse or refrain from disbursing the Escrow Funds as stated herein, provided that the checks or instruments received by the Escrow Agent have been collected and are available for withdrawal.

4. Escrow Account Statements and Information. The Escrow Agent agrees to send to the Lessee and/or the Lessor a copy of the Escrow Account periodic statement, upon request in accordance with the Escrow Agent's regular practices for providing account statements to its non-escrow clients and to also provide the Lessee and/or Lessor, or their designee, upon request other deposit account information, including Account balances, by telephone or by computer communication, to the extent practicable. The Lessee and Lessor agree to complete and sign all forms or agreements required by the Escrow Agent for that purpose. The Lessee and Lessor each consents to the Escrow Agent's release of such Account information to any of the individuals designated by Lessee or Lessor, which designation has been signed in accordance with Section 3(a) by any of the persons in Schedule A. Further, the Lessee and Lessor have an option to receive e-mail notification of incoming and outgoing wire transfers. If this e-mail notification service is requested and subsequently approved by the Escrow Agent, the Lessee and Lessor agrees to provide a valid e-mail address and other information necessary to set-up this service and sign all forms and agreements required for such service. The Lessee and Lessor each consents to the Escrow Agent's release of wire transfer information to the designated e-mail address(es). The Escrow Agent's liability for failure to comply with this section shall not exceed the cost of providing such information.

5. Resignation and Termination of the Escrow Agent. The Escrow Agent may resign at any time by giving thirty (30) days' prior written notice of such resignation to Lessor and Lessee. Upon providing such notice, the Escrow Agent shall have no further obligation hereunder except to hold the Escrow Funds that it has received as of the date on which it provided the notice of resignation as depository. In such event, the Escrow Agent shall not take any action until Lessor and Lessee jointly designate a banking corporation, trust company, attorney or other person as successor escrow agent. Upon receipt of such written instructions signed by Lessor and Lessee, the Escrow Agent shall promptly deliver the Escrow Funds, net of any outstanding charges, to such successor escrow agent and shall thereafter have no further obligations hereunder. If such instructions are not received within thirty (30) days following the effective date of such resignation, then the Escrow Agent may deposit the Escrow Funds and any other amounts held by it pursuant to this Agreement with a clerk of a court of competent jurisdiction pending the appointment of a successor escrow agent. In either case provided for in this section, the Escrow Agent shall be relieved of all further obligations and released from all liability thereafter arising with respect to the Escrow Funds.

6. Termination. (a) *Voluntary Termination by Mutual Agreement of Lessee and Lessor.* Lessor and Lessee may terminate the appointment of the Escrow Agent hereunder upon a joint written notice to Escrow Agent specifying the date upon which such termination shall take effect. In the event of such termination, Lessor and Lessee shall, within thirty (30) days of such notice, jointly appoint a successor escrow agent and the Escrow Agent shall, upon receipt of written instructions signed by both Lessor and Lessee, turn over to such successor escrow agent all of the Escrow Funds; provided, however, that if Lessor and Lessee fail to appoint a successor escrow agent within such thirty (30)-day period, such termination notice shall be null and void and the Escrow Agent shall continue to be bound by all of the provisions hereof. Upon receipt of the Escrow Funds, the successor escrow agent shall become the Escrow Agent hereunder and shall be bound by all of the provisions hereof and the Escrow Agent shall be relieved of all

further obligations and released from all liability thereafter arising with respect to the Escrow Funds.

(b) *Involuntary Termination.* The Escrow Account shall be terminated on the “Termination Date,” which shall be the earliest of (i) the final distribution of amounts in the Escrow Account, (ii) the “Anticipated Closing Date” (as such term is defined on Schedule A hereto), or (iii) unilateral written notice given by Lessor of the occurrence of a default, Event of Default (as such term is defined in the Lease), Non-Appropriation (as such term is defined in the Lease) or any other termination of the Lease which results in Lessor being paid less than the Prepayment Price (as such term is defined in the Lease).

(c) *Transfers Following Involuntary Termination.* Unless all of the Escrow Funds deposited by Lessor in the Escrow Account have been previously disbursed pursuant to Section 2 herein, on the Termination Date, Escrow Agent shall pay upon written direction from Lessor all remaining moneys in the Escrow Account to Lessor or its assignee for application to the Prepayment Price, including any fees, interest or premium included in the definition thereof as found in the related Lease. If any the Prepayment Price does not contain any premium or penalty and this Agreement and the Escrow Account is terminated pursuant to Section 6(b)(iii) herein, then any amounts paid pursuant to this Section 6(c) shall be subject to a prepayment fee equal to three percent (3%) of such amount. Lessor shall apply amounts received under this Section 6 first to unpaid fees, late charges and collection costs, if any, which have accrued or been incurred under the Lease, then to overdue Principal and Interest on the Lease and then, in the sole discretion of Lessor, either (i) to the Prepayment Price due under the Lease in the inverse order of all respective principal maturities, or (ii) proportionately to each Principal payment thereafter due under the Lease. In the event that Lessor elects to apply any such amounts in accordance with clause (i) of the preceding sentence, Lessee shall continue to make Rental Payments as scheduled in the applicable Payment Schedule. In the event that Lessor elects to apply such amounts in accordance with clause (ii) of this Section 6(c), Lessor shall provide Lessee with a revised Payment Schedule which shall reflect the revised Principal balance and reduced Rental Payments due under the Lease. Capitalized terms used in this Section 6, but not defined herein, shall have the meanings given to such terms in the Lease. Escrow Agent shall have no responsibility to see to the appropriate application of any moneys returned under this Section 6.

7. Investment. (a) If the non-interest bearing account option is selected in Schedule A hereto, all Escrow Funds received by the Escrow Agent shall be held only in non-interest bearing bank accounts at Escrow Agent.

(b) If the interest-bearing account option is selected in Schedule A hereto, the Escrow Fund shall be invested in Signature Bank’s Monogram Insured Money Market Deposit Account for Business. Lessee agrees and represents to the Escrow Agent that any interest or other income earned on the Escrow Account shall for the purposes of reporting such income to the appropriate taxing authorities be deemed to be earned by the Lessee.

(c) The following provisions are applicable regardless of whether an interest-bearing or non-interest bearing account is elected. The Lessee represents that it is a US person as that term is defined by IRS. The Lessee agrees to provide the Escrow Agent with a certified tax identification number by signing and returning a Form W-9 to the Escrow Agent upon execution of this Escrow Agreement. The Lessee understands that, in the event the Lessee’s tax identification number is incorrect or is not certified to the Escrow Agent, the Internal Revenue Code, as amended from time to time, may require withholding of a portion of any interest or

other income earned on the Escrow Funds. The Lessee agrees to assume any and all obligations imposed, now or hereafter, by the applicable tax law and/or applicable taxing authorities, with respect to any interest or other income earned on the Escrow Funds and to indemnify and hold the Escrow Agent harmless from any liability or obligation on account of taxes, assessments, additions for late payment, interest, penalties, expenses and other governmental charges that may be assessed or asserted against the Escrow Agent in connection with or relating to any payment made or other activities performed under the terms of this Agreement, including without limitation any liability for the withholding or deduction of (or the failure to withhold or deduct) the same, and any liability for the failure to obtain proper certifications or to report properly to governmental authorities in connection with this Agreement, including costs and expenses (including reasonable legal fees and expenses) interest and penalties, in each such case to the extent applicable to, or arising in respect of, the interest earned on the Escrow Account, unless such liability is caused by the Escrow Agent's gross negligence or willful misconduct. The foregoing indemnification and agreement to hold harmless shall survive the termination of this Agreement.

8. Security Interest. The Escrow Agent and Lessee acknowledge and agree that the Escrow Account, the Escrow Funds, and all investments, cash, securities, and proceeds thereof are being irrevocably held by Escrow Agent for the benefit of the Lessee and Lessor subject to disbursement or return solely as set forth herein. In limitation of the foregoing, Lessee hereby grants to Lessor a first priority perfected security interest in the Escrow Account and Escrow Funds, and all cash, securities, investments and proceeds thereof that may, from time to time, be held in the Escrow Account. If the Escrow Account, or any part thereof, is converted to investments as set forth in this Agreement, such investments shall be made in the name of Escrow Agent and held for the benefit of Lessor and Lessee subject to the express terms and conditions of this Agreement. Notwithstanding the grant and conveyance of a lien and security interest in favor of the Lessor and solely with respect to Claims, Fees or other actual and out-of-pocket costs that have not been previously reimbursed, Escrow Agent is hereby granted a security interest in and a lien upon the Escrow Account and Escrow Funds, which security interest and lien shall be prior to all other security interests, liens or claims against the Escrow Account, Escrow Funds, or any part thereof.. The Escrow Account and Escrow Funds shall not be subject to levy or attachment or lien by or for the benefit of any creditor of either Lessor or Lessee or Escrow Agent (other than Lessor's and Escrow Agent's respective security interests granted hereunder).

9. Compensation. The Escrow Agent shall be entitled, for the duties to be performed by it hereunder, to a one-time "Set-Up Fee," if any, as set forth on Schedule A hereto, which fee shall be paid by Lessor or Lessee upon the signing of this Agreement. In addition, Lessor and Lessee shall be obligated to reimburse Escrow Agent for all fees, costs and expenses incurred or that becomes due in connection with this Agreement or the Escrow Account, including reasonable attorney's fees (collectively, and together with the Set-Up Fee, "Fees"). Neither the modification, cancellation, termination or rescission of this Agreement nor the resignation or termination of the Escrow Agent shall affect the right of the Escrow Agent to retain the amount of any fee which has been paid, or to be reimbursed or paid any amount which has been incurred or becomes due, prior to the effective date of any such modification, cancellation, termination, resignation or rescission. To the extent the Escrow Agent has incurred any such expenses, or any

such fee becomes due, prior to or commensurate with the Termination Date, the Escrow Agent shall advise the Lessee and Lessor and the Lessee and Lessor shall direct all such amounts to be paid directly to Escrow Agent prior to any distribution of funds set forth in Section 6 herein

10. Information Required Under USA PATRIOT ACT. The parties acknowledge that in order to help the United States government fight the funding of terrorism and money laundering activities, pursuant to Federal regulations that became effective on October 1, 2003 (Section 326 of the USA PATRIOT Act) all financial institutions are required to obtain, verify, record and update information that identifies each person establishing a relationship or opening an account. The parties to this Agreement agree that they will provide to the Escrow Agent such information as it may request, from time to time, in order for the Escrow Agent to satisfy the requirements of the USA PATRIOT Act, including but not limited to the name, address, tax identification number and other information that will allow it to identify the individual or entity who is establishing the relationship or opening the account and may also ask for formation documents such as articles of incorporation or other identifying documents to be provided.

11. Israel Boycott Disclosure. Consultant agrees not to participate in during the term of the contract a boycott of Israel in accordance with A.R.S. §35-393.01. Consultant understands that entire response and any related contract documents will become public record in accordance with A.A.C. R2-7-C317.

12. Notices. All notices, requests, demands and other communications required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given if sent by hand-delivery, by facsimile followed by first-class mail, by nationally recognized overnight courier service or by prepaid registered or certified mail, return receipt requested, to the addresses set forth below.

If to Lessor:

Signature Public Funding Corp.
600 Washington Avenue, Suite 305
Towson, Maryland 21204
Attention: Mike Furnari
E-mail Address: mfurnari@signatureny.com
Fax No: (646) 927-4005

If to Lessee:

City Of Cottonwood
816 N Main Street
Cottonwood, AZ 86326
Attention: Jesus "Rudy" Rodriquez
Fax No.: 928-301-4719

If to Escrow Agent:

Signature Bank
75 Holly Hill Lane
Greenwich, CT 06830

Attention: _____, Group Director and Senior Vice President

Fax No.: _____

13. General.

(a) This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of New York applicable to agreements made and to be entirely performed within such State, without regard to choice of law principles, and any action brought hereunder shall be brought in the courts of the State of New York, located in the County of New York. Each party hereto irrevocably waives any objection on the grounds of venue, forum non-conveniens or any similar grounds and irrevocably consents to service of process by mail or in any manner permitted by applicable law and consents to the jurisdiction of said courts. **UNLESS EXPRESSLY PROHIBITED BY APPLICABLE LAW, EACH OF THE PARTIES HERETO HEREBY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT.**

(b) This Agreement sets forth the entire agreement and understanding of the parties in respect to the matters contained herein and supersedes all prior agreements, arrangements and understandings relating thereto.

(c) All of the terms and conditions of this Agreement shall be binding upon, and inure to the benefit of and be enforceable by, the parties hereto, as well as their respective successors and assigns.

(d) This Agreement may be amended, modified, superseded or canceled, and any of the terms or conditions hereof may be waived, only by a written instrument executed by each party hereto or, in the case of a waiver, by the party waiving compliance. The failure of any party at any time or times to require performance of any provision hereof shall in no manner affect its right at a later time to enforce the same. No waiver of any party of any condition, or of the breach of any term contained in this Agreement, whether by conduct or otherwise, in any one or more instances shall be deemed to be or construed as a further or continuing waiver of any such condition or breach or a waiver of any other condition or of the breach of any other term of this Agreement. No party may assign any rights, duties or obligations hereunder unless all other parties have given their prior written consent.

(e) If any provision included in this Agreement proves to be invalid or unenforceable, it shall not affect the validity of the remaining provisions.

(f) This Agreement and any modification or amendment of this Agreement may be executed in several counterparts or by separate instruments and all of such counterparts and instruments shall constitute one agreement, binding on all of the parties hereto.

14. Form of Signature. The parties hereto agree to accept a facsimile or e-mail transmission copy of their respective actual signatures as evidence of their actual signatures to this Agreement and any modification or amendment of this Agreement; *provided, however*, that each party who produces a facsimile or e-mail signature agrees, by the express terms hereof, to place, promptly after transmission of his or her signature by fax, a true and correct original copy of his or her signature in first class mail, postage pre-paid, to the address of the Escrow Agent.

15. No Third-Party Beneficiaries. This Agreement is solely for the benefit of the parties and their respective successors and permitted assigns, and no other person has any right, benefit, priority or interest under or because of the existence of this Agreement.

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date first set forth above.

CITY OF COTTONWOOD

By: _____
Name: Jesus "Rudy" Rodrigues
Title: Administrative Services General Manager

SIGNATURE PUBLIC FUNDING CORP.

By: _____
Name: Donald S. Keough
Title: Senior Managing Director

SIGNATURE BANK, as Escrow Agent

By: _____
Name:
Title:

By: _____
Name:
Title:

Schedule A

SPFC Lease/Account Number:

Name of Lessee: City Of Cottonwood

Beneficiary Name for Fund: City Of Cottonwood

Date of Escrow Agreement: November 30, 2016

Date of Master Lease Agreement: November 30, 2016

Lessee's State / Commonwealth: AZ

Lessee Entity State: _____

Lessee's Tax Identification Number: 86-6007877

Escrow Agent Fee: \$0.00

Initial Deposit Amount: \$1,194,232

Account Type: X Non-interest Bearing

□ Interest Bearing

Anticipated Closing Date: 18 or 36 months from opening date

The Escrow Agent is authorized to accept instructions signed or believed by the Escrow Agent to be signed by any one of the following on behalf of Lessee and Lessor.

City of Cottonwood

Name

True Signature

Signature Public Funding Corp.

Name

True Signature

Donald S. Keough

Rich Cumbers

Schedule B: Payment Request Form No. [__]

SIGNATURE BANK, as Escrow Agent under an Escrow Agreement dated as of November 30, 2016 (the "Escrow Agreement") by and among the Escrow Agent, **SIGNATURE PUBLIC FUNDING CORP.**, as Lessor, and City Of Cottonwood, as Lessee, is hereby requested to pay, from the Escrow Account, to the person or entity designated below as payee, that amount set forth opposite each such name, in payment of the Acquisition Costs of the Equipment designated opposite such payee's name and described on the attached page(s). The terms capitalized in this Payment Request Form but not defined herein shall have the meanings assigned to them in the Escrow Agreement.

Payee

Amount

Equipment

The Lessee hereby certifies that:

1. Attached hereto is a duplicate original or certified copy of the following documents relating to the order, delivery and acceptance of the Equipment described in this Payment Request Form: (a) a manufacturer's or dealer's invoice; and (b) Lessee's Acceptance Certificate relating to the Equipment in substantially the form as attached as Exhibit B to the Lease.

2. The representations and warranties contained in the Lease are true and correct as of the date hereof.

3. No Non-Appropriation or Event of Default, as each such term is defined in the Lease, or event which with the giving of notice or passage of time or both would constitute an Event of Default, has occurred.

Dated: _____, 20__.

City of Cottonwood,
Lessee

SIGNATURE PUBLIC FUNDING CORP.
Lessor

By: _____
Name: Jesus "Rudy" Rodrigues
Title: Administrative Services General Manager
Date: _____

By: _____
Name: Donald S. Keough
Title: Senior Managing Director
Date: _____

Address: 816 North Main Street
Cottonwood, AZ 86326

Address: 600 Washington Avenue, Suite 305
Towson, MD 21204

CLAIMS EXCEPTIONS REPORT OF NOVEMBER 15, 2016[illegible]